



An Integra Telecom Company

April 28, 2008

*Filed electronically and
via overnight Federal Express*

Public Utility Commission of Oregon
ATTN: Filing Center
550 Capitol Street NE, Suite 215
Salem, OR 97308-2148

Re: In the Matter of the Petition of Eschelon Telecom of Oregon, Inc. for Arbitration
with Qwest Corporation, Pursuant to 47 U.S.C. Section 252 of the Federal
Telecommunications Act of 1996
Docket No. ARB 775

Dear Sir/Madam:

Enclosed for filing are an original and three copies of Eschelon Telecom of Oregon, Inc.'s Comments on Arbitrator's Decision in the above-referenced matter. Electronic copies of this document were filed on April 28, 2008.

Also enclosed is a certificate of service. I have also enclosed an additional copy of this letter and request that you date stamp its receipt and return it to me in the enclosed self-addressed, stamped envelope.

Sincerely,

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Enclosures

cc: Jason Topp, Qwest (email and Federal Express)
Alex Duarte, Qwest (email and Federal Express)

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

Docket No. ARB 775

In the Matter of the Petition of
Eschelon Telecom of Oregon, Inc. for
Arbitration with Qwest Corporation,
Pursuant to 47 U.S.C. Section 252 of the
Federal Telecommunications Act of
1996

CERTIFICATE OF SERVICE

I hereby certify that Eschelon Telecom of Oregon, Inc.'s Comments on Arbitrator's Decision were filed electronically with the Oregon Public Utility Commission on April 28, 2008. The original and three copies were sent via overnight mail on the 28th day of April, 2008 to:

Oregon Public Utility Commission
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and true and correct copies were sent via email and overnight delivery on April 28, 2008, to:

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DATED this 28th day of April, 2008.



Tobe L. Goldberg

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

ARB 775

In the Matter of

ESCHELON TELECOM OF OREGON, INC.

Petition for Arbitration of an Interconnection
Agreement with Qwest Corporation, Pursuant to
Section 252(b) of the Telecommunications Act

)
) **ESCHELON TELECOM OF**
) **OREGON, INC.'S COMMENTS ON**
) **ARBITRATOR'S DECISION**
)

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I. INTRODUCTION

Pursuant to OAR 860-016-0030,¹ Eschelon Telecom of Oregon, Inc. (“Eschelon”) respectfully submits these Comments regarding the Arbitrator’s Decision that was served in this matter on March 27, 2008 (“Arbitrator’s Decision”). Eschelon continues to believe that the interconnection agreement (“ICA”) language that it has proposed for each issue in this case is supported by the evidence and represents the better alternative from the perspective of the public interest. Although the Arbitrator recommends that Qwest Corporation (“Qwest”) prevail on a number of issues in the arbitration (as summarized in Attachment A to the Arbitrator’s Decision), Eschelon does not address every one of those issues in these Comments. Instead, Eschelon requests modifications to the Arbitrator’s Decision with respect to the important issues of Intervals (Issue 1-1) and Unapproved Rates (Issue 22-90).

II. DISCUSSION

Eschelon asks the Commission to adopt Eschelon’s language for Issue 1-1 and subparts (Intervals); to adopt Eschelon’s language and proposed rates for Issue 22-90 and subparts (Unapproved Rates), or in the alternative, to adopt the modified language and interim rates described in these Comments in response to the Arbitrator’s findings; and to adopt each of the Arbitrator’s recommendations to use Eschelon’s proposed language for additional issues (which are summarized in Attachment A to the Arbitrator’s Decision). Regarding those additional issues, Eschelon provides an example regarding Issues 12-71 – 12-73 (Jeopardies) and asks the Commission to reject any modified proposal by Qwest

¹ The Arbitrator extended the deadline to file comments regarding the Arbitrator’s Decision to within 30 days. *See* Arbitrator’s Decision, p. 83, ¶4.

to delete a key phrase of Eschelon’s Jeopardies language and to adopt the Arbitrator’s recommendation to use Eschelon’s Jeopardies language.

A. INTERVALS (ISSUE 1-1 AND SUBPARTS)

There is no dispute that the ICA language proposed by Eschelon for Issue 1-1 (Intervals) accurately reflects the intervals that are in place today.² The dispute concerns how changes to those intervals may be made during the term of the ICA. Eschelon needs contractual certainty as to intervals, so it can plan its business and meet the expectations of its End User Customers. Therefore, Eschelon proposes that currently existing intervals be reflected in the ICA. This approach requires an amendment to the ICA – using a familiar streamlined amendment process – either (1) only when an interval is lengthened (Eschelon’s Proposal #1); or, in the alternative, (2) when an interval is changed (lengthened or shortened) (Eschelon’s Proposal #2). Qwest takes the position that intervals do not belong in the contract and that they should be changed exclusively through Qwest’s Change Management Process (“CMP”) to require uniformity, instead of allowing interval terms to be included in individual ICAs. About CMP, the Arbitrator said: “I concur with the Minnesota Arbitrators’ finding that the CMP Document ‘permit[s] the provisions of an ICA and the CMP to coexist, conflict, or potentially overlap.’”³

In CMP, the onus is upon Eschelon to act to prevent a change in an existing interval when Qwest notifies CLECs that Qwest intends to lengthen an interval, even when the interval has long been in place. The Minnesota Commission adopted

² Qwest Post-Hearing Brief, p. 4 [“In this instance, Eschelon does not seek to change any Qwest intervals Transcript (“Tr.”), pp. 14:16 - 15:4, 69:3 - 71:12”].

³ Arbitrator’s Decision, p. 7 (citing Eschelon/29, Denney/6, MN ALJ Report, ¶21.

Eschelon’s proposal for lengthening intervals via a streamlined ICA amendment process, affirming the Minnesota ALJs’ finding that “Eschelon has provided convincing evidence that the CMP process does not always provide CLECs with adequate protection from Qwest making important unilateral changes in the terms and conditions of interconnection.”⁴

1. Intervals Defined

Provisioning intervals dictate the timing of service delivery to the End User Customer, as well as timing of the activities that the CLEC (as a wholesale customer of Qwest’s) must perform in preparation for service provisioning. An interval for a *retail* End User Customer establishes the due date upon which the retail End User Customer is scheduled to receive working service. An interval for a *wholesale* customer (e.g., a CLEC) establishes the due date upon which Qwest will deliver the wholesale service to the CLEC. For unbundled network element (“UNE” or “unbundled”) loops, there is still more work that the CLEC needs to do after Qwest delivers the UNE loop to make service work for CLEC’s End User Customer, as Qwest does not perform the end user retail functions for a wholesale service.⁵ Unexpected untimely delivery (early or late) causes problems (such as not allowing CLEC to prepare when service is delivered early unexpectedly).

Qwest stated that the FCC and state commissions have recognized that, by providing services according to Commission approved intervals (e.g., nine days for DS1 capable loops in Oregon), Qwest is giving CLECs a meaningful opportunity to compete,⁶

⁴ Eschelon/29, Denney/7, Minnesota Arbitrators’ Report, ¶ 22, *aff’d* MN PUC Arbitration Order, Eschelon/30”, p. 7 & p. 22, ¶1. Cf. Arbitrator’s Decision, p. 9 (discussed below).

⁵ See Oregon Tr., Vol. I, p. 108, lines 19-24; p. 114, line 22 – p. 115, line 2; p. 116, lines 17-21; p. 120, lines 11-14.

⁶ See *id.* & Qwest/18, Albersheim/39, lines 12-15. The Minnesota Commission recognized the importance of service intervals to CLECs’ ability to compete in the Qwest 271 case. In that case, Qwest

including when a state (such as Arizona) has different wholesale and retail intervals.⁷ In such states, for example, CLECs receive a DS1 capable loop on a wholesale basis from Qwest on Day 5 in other states⁸ and then are allowed time to perform the additional work CLEC needs to perform to make service work for CLEC's retail End User Customer per that recognized interval. Given that the interval for retail customers is nine days, Qwest itself has the full nine days of the interval to prepare for service provisioning on the due date for its retail End User Customers. CLECs who have built systems, products, and processes to support these intervals, and Customers who depend on those intervals to receive service, have come to rely on these established intervals. The important role that intervals play in providing quality service to End User Customers and giving CLECs a meaningful opportunity to compete weighs heavily in favor of contractual certainty with respect to intervals.

2. Recognized importance of intervals

The Arbitrator recognized the importance of intervals to Eschelon and to its ability to compete, stating:

Service provisioning intervals are extremely important to Eschelon because they determine how quickly it will be able to serve its end user customers. Longer intervals mean that customers must wait longer to receive service and can have a negative impact on customer perceptions of Eschelon's service quality. By

attempted to increase the loop interval from 5 days to 9 days by simultaneously lengthening the interval for its retail customers and arguing that it should be required to provide service to CLECs only at parity with that provided to its retail customers. The Minnesota Commission rejected Qwest's parity argument, concluding that Qwest cannot make wholesale intervals unreasonable by lengthening its retail intervals and that the 5 day loop interval provided CLECs a meaningful opportunity to compete. *See Findings of Fact, Conclusions of Law and Recommendations, In the Matter of a Commission Investigation into Qwest's Compliance with Section 271(c)(2) (B) of the Telecommunications Act of 1996: Checklist Items 1, 2, 4, 5, 6, 11, 13, and 14*, Docket No. P-421/CI-03-1371 (Sept. 16, 2003) ("MN 271 ALJ Order") at ¶ 125.

⁷ See, e.g., footnote 14 to Qwest/18, Albersheim/39, lines 12-15 (citing Arizona decision). Qwest indicated that state commissions have found that a five-day interval for CLEC DS1 capable loop orders is appropriate in other states, where the retail interval is nine days. See *id.*

⁸ In Oregon, CLECs receive the DS1 loop from Qwest on Day 9 (the same day as Qwest retail customers).

including service intervals in the ICA, Eschelon can represent with greater confidence that it will be able to provision service within a specific timeframe.⁹

Likewise, every arbitrator in the various state Qwest-Eschelon ICA arbitrations to date¹⁰ has recognized the importance of intervals. The Minnesota arbitrators, as part of a recommendation to adopt Eschelon's language that was affirmed by the Minnesota Commission,¹¹ said: "Service intervals are critically important to CLECs."¹² The arbitrator in Arizona said: "Intervals are essential terms of the products Eschelon orders from Qwest, and Eschelon relies on provisioning intervals to be able to provide certainty to its end users. . . . In light of the importance of certainty surrounding interval lengths, we do not find Qwest's arguments and predictions of the demise of the effectiveness of the CMP persuasive."¹³ The Washington arbitrator said: "Provisioning intervals are important terms and conditions in the ICA. Therefore the parties must negotiate changes and request Commission approval as amendments to the ICAs."¹⁴

⁹ Arbitrator's Decision, p. 8 (last paragraph).

¹⁰ As of the writing of these Comments, only the Minnesota Commission has issued a final Qwest-Eschelon arbitration order. In Arizona and Washington, the Administrative Law Judges ("ALJs") have issued recommended decisions, but the commissions have not yet ruled on those recommendations. Eschelon filed the Washington ALJ Report as supplemental authority in this matter on January 22, 2008. Qwest filed the Arizona ALJ Report as supplemental authority in this matter on or about February 25, 2008. In the other two states (Colorado and Utah), the ALJs have not yet issued their recommendations.

¹¹ Eschelon/30, Order Resolving Arbitration Issues, Requiring Filed Interconnection Agreement, Opening Investigation and Referring Issue to Contested Case Proceeding, *In the Matter of the Petition of Eschelon Telecom, Inc. for Arbitration of an Interconnection Agreement with Qwest Corporation Pursuant to 47 U.S.C. § 252(b) of the Federal Telecommunications Act of 1996*, OAH No. 3-2500-17369-2; MPUC Docket No. P-5340,421/IC-06-768 (March 30, 2007) ["MN PUC Arbitration Order, Eschelon/30"], p. 7 & p. 22, ¶1. The MN PUC Arbitration Order was admitted as Eschelon Exhibit No. 30.

¹² Eschelon/29, Denney/7, Minnesota Arbitrators' Report, *In the Matter of the Petition of Eschelon Telecom, Inc. for Arbitration of an Interconnection Agreement with Qwest Corporation Pursuant to 47 U.S.C. § 252(b) of the Federal Telecommunications Act of 1996*, OAH 3-2500-17369-2/MPUC No. P-5340,421/IC-06-768 (Jan. 16, 2007) ("MN ALJ Report, Eschelon/29"), ¶ 22. The MN ALJ Report was admitted as Eschelon Exhibit No. 29.

¹³ Recommended Opinion and Order, *In the Matter of the Petition of Eschelon Telecom, Inc. for Arbitration of an Interconnection Agreement with Qwest Corporation Pursuant to 47 U.S.C. § 252(b) of the Federal Telecommunications Act of 1996*, Docket Nos. T-03406A-06-0572, T-01051B-06-0572 (Feb. 22, 2008) ("AZ ALJ Report"), p. 6, lines 9-10 & 19-20. The AZ ALJ Report was filed as supplemental authority in this matter on or about Feb. 25, 2008.

¹⁴ Arbitrator's Report and Decision, *In the Matter of the Petition for Arbitration of an Interconnection Agreement between Qwest Corporation and Eschelon Telecom, Inc. Pursuant to 47 U.S.C.*

3. Changes in intervals

Although the Arbitrator in this matter agrees that intervals are “extremely important,”¹⁵ the Arbitrator recommends adoption of Qwest’s proposal to exclude many intervals from the ICA, to refer Eschelon instead to information posted on Qwest’s website, and to modify intervals via CMP notification.¹⁶ Qwest modifies interval information on its website by sending a notification via email to CLECs. The evidence shows that, even when CLECs have uniformly objected to such a Qwest CMP notification, Qwest has implemented changes over CLEC objection.¹⁷

Eschelon proposes to use, for increases to intervals,¹⁸ the streamlined vehicle that is in place today for new products under Section 1.7.1 of the Statement of Generally Available Terms (“SGAT”) and other approved interconnection agreements.¹⁹ This makes use of simple advice adoption letters.²⁰ The advice adoption letters under Section

Section 252(b), Docket No. UT-063061, Order No. 16 (Jan. 18, 2008), p. 9, ¶ 20 (“WA ALJ Report”). The AZ ALJ Report was filed as supplemental authority in this matter on Jan. 22, 2008.

¹⁵ Arbitrator’s Decision, p. 8 (last paragraph).

¹⁶ Disputed Issues List (Oct. 5, 2007), pp. 1-5. (On page 2 of the Arbitrator’s Decision, the Arbitrator points to this Disputed Issues List as identifying the parties’ proposed language.)

¹⁷ See, e.g., Eschelon/1, Starkey/50-60 (CRUNEC example).

¹⁸ Eschelon’s Proposal #1 does not require Commission approval for shortened intervals because shortened intervals can benefit the CLEC and its End User Customers, and a longer due date can be obtained, if needed. Since changes to shorten intervals would almost certainly be agreed to, and occur much more frequently than lengthened intervals, Eschelon’s proposal efficiently utilizes resources of the Commission, Qwest and CLECs by requiring Commission approval only when disagreement about the change in interval may occur. See Eschelon/1, Starkey/108-109. However, given the importance of intervals, the Commission may desire that all interval changes require Commission-approved amendments (for which Eschelon Proposal #2 is available). To expedite these amendments, Proposal #2 also uses the established, streamlined procedures that have been applicable in the past to new products. See ICA Section 1.7.1. See also SGAT Section 1.7.1 and subparts & Exhibits L and M.

¹⁹ Disputed Issues List, pp. 1-2 & Eschelon’s proposed Exhibits N & O (showing Eschelon’s Proposal Nos. 1 & 2 for ICA and Exhibit language). See Eschelon/123, Starkey/57-61 regarding how the streamlined process works.

²⁰ Eschelon and Qwest agree that Advice Adoption Letters identified as Exhibits L and M (also SGAT exhibits) should be used for new products. Both Exhibits are attached to the proposed ICA, with closed language that is the same as the language of these same exhibits to the SGAT. Eschelon proposes that Advice Adoption Letters identified as Exhibits N and O should be used for intervals, which are nearly identical to Exhibits L and M in format and substance (though they apply to intervals instead of products) and would be used to amend the ICA in the same way. Because an interval is simply a time period as opposed to a new product (which would have a description and other requirements), language from Exhibits L and M referring to other requirements on Qwest’s web site has been omitted from Exhibits N

1.7.2 of the proposed ICA are not forms merely of Eschelon's creation but rather reflect minor edits of the existing advice adoption letters used for new products under Section 1.7.1 of the SGAT.²¹ The body of Exhibit N (like the first paragraph of Exhibit L) is four lines long. Exhibit O (like Exhibit M) is a one page letter. These are not complex or entirely new forms or procedures.

If a CLEC is prepared to accept Qwest's terms, the CLEC signs the letter (in the form letter attached to the ICA) and sends the letter to the Commission for approval. Interim terms are also available (in a separate form letter attached to the ICA) as an alternative. These "letters," which are also available for new products under the SGAT, are designed to be easier than administering other ICA agreements or amendments that come before the Commission for approval. The presence of the virtually identical, agreed-to amendment-by-advice-letters process for new products in the SGAT demonstrates that this is not unique to Eschelon's proposal.

Each of the reasons provided by the Arbitrator for the recommendation of Qwest's language regarding changes to intervals instead of recommendation of Eschelon's approach providing contractual certainty and a streamlined amendment process should be reviewed in light of the recognized importance of this issue and in light of the Arbitrator's own findings on CMP generally.²²

and O. (Because the interval, unlike all of the terms associated with a new product, is repeated in the Advice Adoption Letter, the interval-related exhibits do not need the additional language about terms found in the website but not the letter. The interval is in the letter.)

²¹ Compare closed Exhibits L (Advice Adoption Letter) and M (Interim Advice Adoption Letter) that apply to new products to Eschelon-proposed Exhibits N (Interval Advice Adoption Letter) and O (Interval Interim Advice Adoption Letter) that apply to new intervals. Differences between the agreed-to Advice Adoption Letters and the Eschelon-proposed Advice Adoption Letters is that Eschelon's proposed Advice Adoption Letters use the term "new interval for product/service" instead of the term "new product" (with a few additional textual changes to refer to intervals instead of "rates, terms and conditions" for a new product). The agreed-to Advice Adoption Letters also require the rates, terms and conditions related to the new product be attached to the Letter, whereas the Eschelon-proposed Letter would refer to the new interval in the body of the Letter.

²² Arbitrator's Decision, pp. 6-7.

a. The Integrity of CMP Will Be Maintained by Giving Effect to CMP's Scope Provision.

The Arbitrator, while agreeing with the Minnesota commission as to the importance of intervals, recommends a result different from the Minnesota commission²³ and the other state arbitrators. The Arbitrator explains that Qwest has an interest in “maintaining the integrity of the CMP process.”²⁴ A keystone of the CMP process, the integrity of which must be maintained, however, is that ICAs control vis-à-vis CMP. Eschelon has a significant interest in maintaining the integrity of this agreed upon²⁵ *limitation* upon CMP, which is part and parcel of that process.²⁶ The purpose of establishing a ground rule that CMP will not supersede individual ICAs would be defeated if Qwest could circumvent that rule by preventing inclusion of a term in individual ICAs.

The Arbitrator refers to the “collaborative process underlying the CMP mechanism.”²⁷ That process and the CMP mechanism are governed by the “CMP Document,”²⁸ which outlines the rules and procedures governing conduct of Qwest’s CMP.²⁹ The process in which CLECs, including Eschelon, and Qwest participated to develop the CMP Document is known as “CMP Redesign.”³⁰ The following excerpt from Section 1.0 (“Introduction and Scope”) of the CMP Document³¹ addresses the

²³ Arbitrator’s Decision, p. 9 (last paragraph).

²⁴ Arbitrator’s Decision, p. 9 (first paragraph).

²⁵ In addition to agreeing to Scope language in the CMP Document (quoted below) in CMP Redesign [see Eschelon/54 (CMP Redesign Meeting Minutes), Johnson/8], Qwest agreed to include this limiting provision in the body of the ICA. See ICA Section 12.1.6.1.4 (agreed upon/closed language).

²⁶ See Eschelon/54 (CMP Redesign Meeting Minutes), Eschelon/55 (CMP Redesign Meeting Minutes) & Eschelon/1, Starkey 26-29.

²⁷ Arbitrator’s Decision, p. 9 (first paragraph).

²⁸ The CMP Document is attached to Qwest’s testimony at Qwest/2, Albersheim, and it is also attached to Eschelon’s testimony as Eschelon/53, Johnson.

²⁹ See Eschelon/1, Starkey 26-29.

³⁰ Qwest/1, Albersheim/21 at lines 3-7.

³¹ See also Eschelon/54, Johnson/2-3 (Gap Analysis #150) (CMP redesign meeting minutes addressing CMP in relation to ICAs).

relationship between the ICA and CMP and clearly indicates that CMP does not control interconnection issues:

In cases of conflict between the changes implemented through this CMP and any CLEC interconnection agreement (whether based on the Qwest SGAT or not), the rates, terms and conditions of such interconnection agreement shall prevail as between Qwest and the CLEC party to such interconnection agreement. In addition, if changes implemented through this CMP do not necessarily present a direct conflict with a CLEC interconnection agreement, but would abridge or expand the rights of a party to such agreement, the rates, terms and conditions of such interconnection agreement shall prevail as between Qwest and the CLEC party to such agreement.³²

This Scope principle is so important and so integral to CMP in relation to the ICA that the same language must appear in all CMP notices to inform CLECs receiving the notice that it does not apply to them if it conflicts with their ICAs.³³ In other words, per the CMP terms and conditions, CMP changes may affect some, but not all, CLECs, depending on the terms of their ICAs and whether the change conflicts with those terms for each CLEC. The Arbitrator concurred with the Minnesota arbitrators' finding that the CMP Document "permit[s] the provisions of an ICA and the CMP to coexist, conflict, or potentially overlap."³⁴ There is no exception to the CMP Document's Scope language for "standardized" or "uniform" processes, even when Qwest claims they benefit both Qwest and CLECs. Clearly, Eschelon does not agree that handling interval length in CMP instead of the ICA is a benefit to Eschelon. The CMP Document is intended to ensure that the CMP will not supersede individual ICAs.³⁵

³² Qwest/2, Albersheim/14 (CMP Document) (quoted in the Arbitrator's Decision, p. 7).

³³ Qwest is required, per the CMP Document, to include this language in CMP notices. *See* Eschelon/53, §5.4, which states (with emphasis added): "The following defines five levels of Qwest originated product/process changes and the process by which Qwest will originate and implement these changes. None of the following shall be construed to supersede timelines or provisions mandated by federal or state regulatory authorities, certain CLEC facing Web sites (*e.g.*, ICONN and Network Disclosures) or individual interconnection agreements. ***Each notification will state that it does not supersede individual interconnection agreements.***"

³⁴ Arbitrator's Decision, p. 7.

³⁵ Eschelon/53 (CMP Document), §5.4 (quoted in above footnote).

Because the ICA controls, the procedures in the CMP Document for issues within the scope of CMP are never reached for individual ICA issues, which are by definition outside the scope of CMP. Although the Arbitrator refers to a “comprehensive set of procedures” in the CMP Document relating to requests for postponement and arbitration of requests for postponement,³⁶ those procedures were not intended to come into play for issues governed by individual ICAs.³⁷ The intent is for the parties to use the dispute resolution processes in their ICAs, and not also those in the CMP Document, for these issues outside the scope of CMP. In contrast, the approach recommended by the Arbitrator would require Eschelon to use both because, even assuming a postponement is obtained, Eschelon still has to proceed with litigation before each applicable Commission to obtain rulings resolving the dispute.³⁸

The Arbitrator later states that CMP was designed to implement process changes “without the cost and delay associated *with litigation*.”³⁹ Under the approach recommended by the Arbitrator, however, litigation still occurs for every disputed change lengthening an interval. When the parties disagree as to whether an interval should be lengthened and do not mutually agree to a resolution, one of the parties needs to bring the issue to the Commission for resolution. Litigation is not avoided. Eschelon appreciates that the Arbitrator is responding to Eschelon’s examples and concerns about “unilateral”

³⁶ Arbitrator’s Decision, pp. 9-10.

³⁷ Eschelon/54, Johnson, 2 (CMP Redesign documentation regarding individual ICAs, quoting Colorado transcript in which Qwest states contract controls) at Gap #150 & Eschelon/54, Johnson/5 (CMP Redesign meeting minutes) (showing that Gap #150 was closed only after the previously quoted Scope language was added to the CMP Document).

³⁸ The Arbitrator refers at one point to “multiple CLECs” (p. 10), but there are many reasons why the complaint may be an individual complaint. The product for which an interval is lengthened may be one that other CLECs with the resources to file a complaint do not order. For example, a data LEC (DLEC) may order only a subset of the products ordered by Eschelon. Other carriers may object to a CMP change but not have the resources to file a complaint, or may decide that they may benefit from the result of the complaint whether they expend the resources to participate or not. It cannot be assumed that Eschelon’s costs of proceeding with a dispute would be lowered by other CLEC participation.

³⁹ Arbitrator’s Decision, p. 9 (first paragraph) (emphasis added).

conduct by Qwest.⁴⁰ Even if the interval is not unilaterally changed by Qwest, however, litigation of the underlying dispute will still occur to obtain a determination as to whether the interval may permanently be lengthened, and the Scope provision of the CMP Document requires litigation of ICA terms to be under the ICA amendment and dispute resolution provisions, rather than the CMP Document for ICA terms of interconnection. Under Eschelon's first proposal, the existing interval will remain in place during the dispute over lengthening an interval,⁴¹ unless the Commission rules otherwise. Under Qwest's approach, Eschelon must expend resources to battle both whether the interval change will be postponed and whether it should permanently be changed.

To the extent that "litigation"⁴² as used by the Arbitrator could be read to mean *ICA arbitrations*, a statement that CMP is designed to avoid litigation in the form of ICA arbitrations is incorrect.⁴³ Eschelon actively participated in the redesign of CMP,⁴⁴ specifically ensuring that its right to negotiate and arbitrate any ICA issue would *not* be limited by CMP.⁴⁵ As indicated above, the purpose of establishing a ground rule that

⁴⁰ Arbitrator's Decision, pp. 9-10.

⁴¹ Both of Eschelon's language proposals also allow the Parties to mutually agree to Qwest's proposed interval in the interim (by signing and seeking Commission approval of an *interim* advice letter), though if CLEC does not accept the longer interval in the interim the ICA interval applies until the ICA is amended. See Disputed Issues List, pp. 1-2.

⁴² Arbitrator's Decision, p. 9 (first paragraph).

⁴³ It is also incorrect to the extent that litigation refers to dispute resolution when issues are not resolved in CMP. See Eschelon/53 (CMP Document) §§5.4 & 15.0; see also Eschelon/1, Starkey 26-29; Eschelon/123, Starkey/43-47; Eschelon/54 (CMP Redesign Meeting Minutes), Johnson/2 at Gap #150 (quoted below). Any recourse within CMP that has Qwest as a decision maker, regardless of format (escalation, *etc.*), does not accomplish the goal of obtaining an outside, enforceable decision to resolve the dispute between Qwest and Eschelon. A third party decision maker is available through Alternative Dispute Resolution, but the CMP Document expressly provides: "***Without the necessity for a prior ADR Process***, Qwest or ***any CLEC*** may submit the issue, following the commission's established procedures, with the appropriate regulatory agency requesting resolution of the dispute. This provision is not intended to change the scope of any regulatory agency's authority with regard to Qwest or the CLECs." *Id.* (emphasis added)."

⁴⁴ Qwest/1, Albersheim/21 at lines 3-7 ("According to the records of the CMP Redesign, Eschelon was an active and vocal participant in the CMP Redesign process, meaning that Eschelon had a hand in the design of the CMP as it exists today.").

⁴⁵ Eschelon/54 (CMP Redesign Meeting Minutes), Eschelon/55 (CMP Redesign Meeting Minutes), & Eschelon/1, Starkey 26-29.

CMP will not supersede individual ICAs would be defeated if Qwest could circumvent that rule by preventing inclusion of a term in individual ICAs. Nothing in the history or content of the CMP Document supports such a reading. In fact, CLECs specifically took steps in CMP Redesign to prevent Qwest from substituting CMP processes for negotiating and arbitrating individual ICA terms. In an earlier Qwest draft of proposed SGAT language, for example, Qwest proposed that, if any Qwest documentation “abridges or expands its rights or obligations . . . **and that change has not gone through CMP**, the Parties will resolve the matter under the Dispute Resolution Process.”⁴⁶

CLECs responded as follows:

The [Qwest-proposed language] “implies that there is no right of recourse for a change that does go through CMP and the result is in conflict with the agreement. That would not be appropriate. **Everything we have heard from Qwest in the redesign is that if a change comes through CMP and is in conflict with a CLEC’s interconnection agreement, the interconnection agreement is controlling. This kind of language in the SGAT guts the contract, particularly when CMP essentially allows Qwest to run through any change it wants to.** Reference to #15: Qwest has the ability to reject/deny CLEC CRs. CLECs do not have the ability to reject/deny Qwest CRs. We need to discuss and find a way to balance the process. As it stands, Qwest CRs go through to completion over CLEC objections, however, CLEC CRs do not go through over Qwest’s objection. CLECs have to use the escalation or dispute resolution process either to advance their CRs (when Qwest rejects/denies) or oppose Qwest CRs (when Qwest ignores CLEC objections). Qwest is never put in this position. This applies to product/process and may apply to systems as well (the group should discuss).⁴⁷

The previously quoted Scope language was inserted into the CMP Document in direct response to CLEC requests to find a way to balance the process and “to establish and document a process to account for individual interconnection agreements (‘ICAs’) when implementing changes and using the Change Management Process (‘CMP’).”⁴⁸

⁴⁶ Eschelon/54, Johnson/2 (CMP Redesign Gap Analysis, p. 99 of 184), Gap #147 (emphasis added).

⁴⁷ Eschelon/54, Johnson/2 (CMP Redesign Gap Analysis, p. 99 of 184), Gap #147 (emphasis added).

⁴⁸ Eschelon/54, Johnson/2 at Gap #150. This “gap” in the CMP process was closed by the CMP Redesign team only after the above-quoted Scope language was added to the CMP Document. *See*

This built-in recognition in the governing CMP document that ICA terms will vary from CMP disproves Qwest's claim repeated throughout its position statements that the "entire purpose" of CMP is to create processes "that are uniform among all CLECs."⁴⁹ Instead, Qwest is attempting to circumvent the clearly defined Scoping requirement under which the ICA controls over CMP by preventing terms from being included in the ICA. Qwest seeks to render this carefully crafted hierarchy meaningless by making CMP the only source of terms for several of the arbitration issues, so that in the end Qwest's *CMP controls* those issues through Qwest's ever changing web-based Product Catalog ("PCAT") and Standard Interval Guide ("SIG")⁵⁰ language. That is the opposite of the manner in which the CMP was designed. The integrity of CMP, as it was intended to operate, will be maintained by giving effect to the Scope language, which allows interconnection terms such as intervals to be included in individual ICAs and provides that those ICA terms control over CMP.

b. If the dispute is largely academic, the harm to Qwest's flexibility is minimal, whereas the harm of a single important interval increase is significant for Eschelon and its Customers.

It is important to note that, if Eschelon's first proposal is adopted, only lengthening of intervals requires an ICA amendment using the streamlined process. If Qwest shortens an interval, CMP is used per Eschelon's first proposal.⁵¹ The Arbitrator

Eschelon/54, Johnson/5 ("ICA vs. CMP" – Gap 150 and Action Item 227 closed based on the language inserted in the Scope section).

⁴⁹ See e.g., Oregon Disputed Issues Matrix, Exhibit 1 to Qwest's Petition (Qwest position statements for Issues 1-1, 8-20, 8-24, 8-29, 9-32, 9-43, 12-64, 12-67, 12-70, 12-71 – 12-73, 12-74, 12-75, 12-76, 12-81, 12-86).

⁵⁰ The SIG, which contains intervals for additional products and services that Eschelon did not request be included in its ICA, is a web posting of intervals for Qwest's offerings. Eschelon/123, Starkey/57, lines 1-3.

⁵¹ As discussed above, under Eschelon's alternative proposal (Proposal #2), an ICA amendment using the streamlined process is required to either increase or decrease an interval. See Disputed Issues List, p. 2.

states that the interval dispute is “largely academic” because, to date, intervals have rarely been lengthened.⁵² Unless Qwest plans to lengthen intervals more frequently than in the past, Eschelon’s first proposal should be of little concern to Qwest. In contrast, a single important interval increase is significant for Eschelon and its End User Customers.

The Arbitrator recognizes that the past may or may not be an indication of the future and, as both parties raised concerns about intervals, it is “necessary to examine the consequences of each party’s proposal in circumstances where Qwest seeks to lengthen a service interval.”⁵³ The Arbitrator then goes on to discuss procedural consequences (which are addressed above in the context of the Scope of CMP). The substantive consequences of a single important interval increase are significant to Eschelon and its Customers. The significance is discussed in these Comments regarding the definition of intervals and the recognized importance of intervals. In contrast, Qwest is arguing for a theoretical need for “flexibility” for itself,⁵⁴ at the expense of Eschelon and its Customers in those circumstances when the parties do not agree to an interval increase.

The Arbitrator concludes that the status quo should be maintained.⁵⁵ In doing so, the Arbitrator focuses on the procedural status quo (as asserted by Qwest⁵⁶), rather than

⁵² Arbitrator’s Decision, p. 9 (second paragraph).

⁵³ Arbitrator’s Decision, p. 9 (second paragraph).

⁵⁴ Qwest/1, Albersheim/34, lines 6-18. See Eschelon Post-Hearing Brief, pp. 33-36.

⁵⁵ Arbitrator’s Decision, p. 11 (first full paragraph).

⁵⁶ Eschelon pointed out in testimony that the CMP Document provides only that intervals on Qwest’s website (the Service Interval Guide) may be changed in CMP, whereas the Scope provision of the CMP Document assures that intervals in interconnection agreements cannot be changed via CMP. See Eschelon/123, Starkey/56, lines 6-11 [citing Scope provision and Eschelon/53 (CMP Document) at Section 5.4.5 (increases to SIG intervals; Level 4 change); *see also* Section 5.4.3 (decreases to SIG intervals; Level 2 change)]. (For example, as here, there may be intervals in the SIG for products that Eschelon does not order so they are not in Eschelon’s ICA but they are in the SIG.) Although Exhibit C as proposed by Qwest does not have as many intervals as in Eschelon’s proposed Exhibit C, Exhibit C as proposed by Qwest contains intervals that are in the interconnection agreement. Per the CMP Document’s Scope provision, the ICA should control, so that these intervals cannot be changed via CMP. Qwest’s proposed language providing that intervals in Exhibit C to the ICA will be modified via CMP is prefaced with the phrase “Notwithstanding any other provision in the Agreement,” in recognition of this conflict and to override the Scope provision of the CMP Document, so that CMP and not the ICA will govern interval changes (i.e., the reverse of the result under the CMP Document’s Scope provision).

on the interval status quo. Substantively, as to intervals, it is important to reiterate that Eschelon is not asking for different intervals in this arbitration than what Qwest already provides. There is no dispute that the ICA language proposed by Eschelon for Issue 1-1 (Intervals) accurately reflects the intervals that are in place today.⁵⁷ CLECs who have built systems and products to support these intervals, and customers who depend on those intervals to receive service, have come to rely on these established intervals. Inclusion of intervals in the ICA is the logical way to ensure End User Customers and their providers such as Eschelon an orderly and reliable provisioning process. Eschelon is seeking stability, unless and until the interval is changed through an orderly process. As discussed earlier, the process proposed by Eschelon is streamlined.

The Washington arbitrator also concluded the status quo should be maintained, but by that, the arbitrator meant the status quo with respect to the current interval lengths.

The Washington arbitrator said:

Adopting Eschelon's first proposal, in essence, preserves the *status quo* and requires changes through a stable process unless the service provisioning intervals would be reduced, not lengthened. Provisioning intervals are important terms and conditions in the ICA. Therefore, parties must negotiate changes and request Commission approval as amendments to the ICA.⁵⁸

The Commission should adopt Eschelon's proposed language for Issue 1-1 and subparts (Intervals).

B. UNAPPROVED RATES (ISSUE 22-90 and subparts)

1. Unapproved Rates – Contract Language (Issue 22-90)

⁵⁷ Qwest Post-Hearing Brief, p. 4 [“In this instance, Eschelon does not seek to change any Qwest intervals Transcript (“Tr.”), pp. 14:16 - 15:4, 69:3 - 71:12”].

⁵⁸ WA ALJ Report,

Issue 22-90 and subparts (“Unapproved Rates”) address situations when Commission-approved rates do not exist. Unapproved Rates are interim rates.⁵⁹ Eschelon sought contract language addressing unapproved rates in this arbitration to obtain some check on Qwest’s ability to impose unapproved, unreviewed rates. Consistent with Eschelon’s position, the Arbitrator does not recommend excluding rate issues from the arbitration or wholesale adopting Qwest’s proposed rates without review and recommends interim rates in this proceeding (which are discussed in the next section). This fact alone is an improvement over the situation to date, when Qwest has been able to unilaterally announce rates, force them upon CLECs by withholding service if not agreed upon,⁶⁰ and charge its unilateral rates indefinitely by choosing not to obtain approved rates from the Commission.

The Arbitrator’s Decision contains a three-prong approach to addressing the indefinite unapproved rates dilemma that has existed for a long time:

1. Adopt interim rates for existing products with unapproved rates;⁶¹
2. Initiate a cost docket for existing products to replace interim rates with approved rates;⁶² and
3. Apply Sections 1.7.1.1 (agreed upon rate) and 1.7.1.2 (interim rate), which are limited to “new” products.⁶³

Together, this three-prong approach addresses aspects of all but one of the scenarios raised by Eschelon. The remaining scenario is when Qwest has been providing

⁵⁹ See proposed ICA Section 24.4.1.1, which states in the portion of this Section that is closed: “Rates reflected on Exhibit A that have not been approved by the Commission in a cost case and require Commission approval shall be considered as Interim rates (“Interim Rates”) by the Parties”

⁶⁰ In the Eschelon complaint case against Qwest under the existing Arizona ICA, Staff in Arizona concluded that “CLECs should not be forced into signing” the Qwest expedite amendment. Direct Testimony of Pamela Genung, *In re. Complaint of Eschelon Telecom of Arizona, Inc. Against Qwest Corporation*, ACC Docket No. T-01051B-06-0257, T-03406A-06-0257 (Jan. 30, 2007) [“Arizona Complaint Docket”], p. 34, lines 10-11. The Staff added that “since CLEC interconnection agreements are voluntarily negotiated or arbitrated,” Qwest “rather than trying to force Eschelon into signing an amendment,” could have taken the issue to arbitration under the Qwest-Eschelon ICA. *Id.* p. 36, line 21 – p. 37, line 2. See Eschelon/9, Denney/205-206; see also Eschelon/133, Denney/32, lines 18-23.

⁶¹ Arbitrator’s Decision, pp. 81-82.

⁶² Arbitrator’s Decision, p. 83, ¶3.

⁶³ Arbitrator’s Decision, p. 76 (first bullet point).

an existing product or service at no additional charge (which may result, for example, when the costs are recovered in another rate) and then Qwest begins charging for that product or service, without seeking an ICA amendment or prior Commission approval. Design change charges (Issue 4-5) are an example of this remaining scenario. It is undisputed that, from 1999 until October 1, 2005, Qwest did not charge an additional charge for design changes for unbundled loops and CFA changes,⁶⁴ which was consistent with the language of both Qwest's SGAT and the parties' current ICA.⁶⁵ On Sept. 1, 2005, however, Qwest sent an unexpected letter to CLECs stating Qwest intended to commence billing CLECs non-recurring charges for Design Changes for unbundled loops, beginning on Oct. 1.⁶⁶ Qwest cited no change of law and did not seek prior Commission approval before making this change. On October 1, 2005, Qwest unilaterally implemented this rate increase.⁶⁷

Under Qwest's desired approach to unapproved rates, CLECs would have no remedy for the latter scenario because Qwest could impose its rate unilaterally. The Arbitrator found, however, that one available remedy is a complaint pursuant to OAR 860-016-0050.⁶⁸ If a CLEC has shortpaid the bill as allowed by the ICA for disputed amounts, another way in which this issue would come before the Commission is in a form of complaint or collection action by Qwest. It is better to have a remedy with the Commission than to have Qwest in unilateral control over rates until Qwest chooses to

⁶⁴ Oregon Tr., Vol. 1, at 0084, lines 8-15 (testimony of Teresa Million); Eschelon/9, Denney/37, lines 4-9.

⁶⁵ Eschelon/9, Denney/43, line 12 – p. 44, line 6 and Eschelon/125, Denney/31-32.

⁶⁶ Eschelon/10.

⁶⁷ Eschelon/125, Denney/16, lines 1-15.

⁶⁸ Arbitrator's Decision, p. 15 (last paragraph). While a complaint may address that particular situation which has already occurred under the existing ICA, it does not address what happens in the next instance when a similar problem occurs under the new ICA. The design change example illustrates that such a thing can happen. Eschelon is attempting to obtain language in the ICA which addresses the proper handling of such a situation, in a manner that does not necessitate individual complaints, if it occurs during the term of the new ICA. Eschelon proposes to use the Minnesota approach, which allows a generic proceeding in which all interested parties may participate.

request approval of a rate. The difficulty, however, is that a rate-by-rate, case-by-case approach to unapproved rates provides an incentive to Qwest to introduce rate increases for services previously provided at no additional charge one at a time and outside of a cost case. Because the expense and time required to litigate a complaint proceeding to resolve a single rate outweighs the additional cost to each CLEC, a CLEC may not be able to cost justify a complaint as to a single rate, even though the rate is excessive and increases the CLEC's costs unjustly. Therefore, Qwest can impact this cost analysis by raising rates one at a time. A general rule, such as that proposed by Eschelon in its language (based on the current process in Minnesota⁶⁹), which requires Qwest to seek prior Commission approval in this particular scenario, would more appropriately incent Qwest to bring proposed rate increases to the Commission in a timely and more efficient manner. Eschelon intends that rates be approved by the Commission using its normal rules and procedures. Given the Arbitrator's objections to the remainder of Eschelon's proposed language, all of Eschelon's proposed language for Sections 22.6.1 and 22.6.1.1 could be replaced simply with a statement of how this particular scenario will be addressed, such as:

22.6.1 Qwest shall obtain Commission approval before charging for a product or service, or access to a product or service,⁷⁰ that Qwest has provided previously at no additional charge. Qwest may request a generic cost proceeding pursuant to Commission rules and procedures or, if the rate is negotiated, may request Commission approval of an amendment to this Agreement.

⁶⁹ October 2, 2002 Order in MN PUC Docket CI-01-1375 ("MN 271 Cost" Docket). Specifically, "Summary of the Commission's findings and conclusions" contains the following provisions on pp. A-6 and A-7: "**Price Under Development:** Qwest shall obtain Commission approval before charging for a UNE or process that it has previously offered without charge. Qwest may negotiate an interim price for a UNE and service not previously offered in Minnesota provided that Qwest file a permanent price, and related cost support, with the Commission within 60 days of offering the UNE or service. ALJ Report p. 64.**New UNE Price:** When offering a new UNE, Qwest shall file a cost-based price, together with an adequate description of the UNE's application, for Commission review within 60 days of offering. Qwest may charge a negotiated rate immediately if part of an approved interconnection agreement (ICA), provided the ICA is filed for Commission review within 60 days." See Eschelon/9, Denney/256.

⁷⁰ Instead of "a product or service, or access to a product or service," the Minnesota Commission used the phrase of "UNE or process" (see above footnote), which would also be acceptable.

To address concerns raised by the Arbitrator about clarity with respect to Commission procedures and applicability to other CLECs, this language confirms that the Commission retains full flexibility to establish procedures, determine whether an interim rate will be set, ensure the rate is available to other CLECs, etc. If the Commission does not adopt Eschelon’s earlier proposed language for Sections 22.6.1 and 22.6.1.1, Eschelon asks the Commission in the alternative to adopt this modified propose language to ensure that the remaining scenario is covered in the ICA in a manner that encourages timely, orderly, and efficient resolution of unapproved rate issues.

2. Unapproved Rates – Interim Rate Levels (Issues 22-90(b) – (ae))

The federal Act expressly envisions that individual arbitration proceedings may involve rate issues.⁷¹ In this arbitration, both companies proposed interim rates for unapproved rates in Exhibit A. This is an important issue, as Qwest offers approximately 400 wholesale products and services in Oregon at rates the Commission has not approved.⁷² Though Qwest laments the approximately 150 interim rates at issue in this

⁷¹ Section 252(b)(4)(c) of the federal Act requires the Commission to resolve each issue set forth in the arbitration petition. See 47 U.S.C. § 252(b)(4)(c). The Act expressly envisions that individual arbitration proceedings may involve rates issues. To that end, Section 252(c) requires that a state commission, “in resolving *by arbitration*” any open issues and imposing conditions upon the parties to the agreement, “*shall establish any rates* for interconnection, services or network elements according to subsection (d) of this section.” See 47 U.S.C. § 252(c) (emphasis added). Section 252(d) of the Act sets forth the applicable pricing standards for interconnection, network elements, and resale at wholesale rates of ILEC retail services. It states that rates shall be cost-based and nondiscriminatory. See 47 U.S.C. § 252(d)(1)(A)(i) & (ii). The FCC’s rules also recognize that state commissions may set rates in arbitration proceedings and therefore impose a duty to produce in negotiations cost data relevant to setting rates in arbitration. See 47 C.F.R. § 51.301(c)(8)(iii) (“If proven to the Commission, an appropriate state commission, or a court of competent jurisdiction, the following actions or practices, among others, violate the duty to negotiate in good faith: . . . (8) Refusing to provide information necessary to reach agreement. Such refusal includes, but is not limited to: . . . (ii) Refusal by an incumbent LEC to furnish *cost data* that would be relevant to *setting rates* if the parties were *in arbitration*.”) (emphasis added).

⁷² The arbitrator found that there are “more than 150 products and services currently provided [by Qwest] under rates that have not been approved by the Commission.” Arbitrator’s Decision, p. 77 (last paragraph), citing Qwest/39, Million/30. Ms. Million, however, is referring only to the approximately 150

arbitration,⁷³ it is important to note that Eschelon accepted Qwest's proposed interim rate for more than 250 rates as part of its overall interim rate proposal. This fact should be kept in mind when considering the reasonableness of Eschelon's overall proposal. Eschelon certainly did not only propose the lowest rates available, as it accepted the highest rate available in the majority of cases – Qwest's "going-in" positions or "wish-list"⁷⁴ unapproved rates.

The Arbitrator correctly rejects Qwest's methodology, though the Arbitrator does not address all of the flaws in Qwest's alleged methodology (as discussed below). There is ample basis to accept Eschelon's interim rate proposals over those of Qwest. Instead, the Arbitrator proposes a methodology different from that proposed by either party. Therefore, the Arbitrator recommends adoption of interim rates in this arbitration proceeding for products with unapproved rates, consistent with the Act's requirement that, in resolving by arbitration open issues, rates shall be established, as discussed above.⁷⁵ The interim rates will remain in effect until permanent rates are established in a wholesale cost docket.

If Eschelon's proposed rates are not adopted, then the Arbitrator's recommended methodology should be adjusted to account for a guiding principle that emerges when that methodology is applied to the data. Eschelon describes that principle below and

unapproved rates that are disputed in this proceeding. In addition, Eschelon in its efforts to resolve issues in negotiation, accepted Qwest's proposed rates as interim rates for more than 250 rates. See Eschelon/133, Denney/140, lines 7-15 & Denney/142, lines 1-4.

⁷³ Qwest/39, Million/30, line 11.

⁷⁴ For rates that are contested in cost cases, the going in rate proposal of a party, for which it wishes to obtain Commission approval, is frequently not adopted without any modification at all. There is often some modification that results in Commission approval of a rate lower than that initially proposed. Therefore, Eschelon refers to this initial proposal as a "going in" position or "wish list" rate. These 250 rates represent no compromise on Qwest's part.

⁷⁵ See 47 U.S.C. § 252(c) (quoted in above footnote).

provides alternative proposed interim rates based on adjustments made to the Arbitrator's recommended methodology using that principle.

a. Arbitrator's Well-Founded Rejection of Qwest's Proposal

The Arbitrator appropriately recommends rejecting Qwest's final proposed rates. Qwest claims it calculated its final proposed rates based on *New Mexico* rates, with certain exceptions.⁷⁶ Qwest did not introduce the cost data underlying the New Mexico rates so it is not part of the record in this case, and Qwest did not make that data available to Eschelon for review.⁷⁷ New Mexico is a small, relatively rural state that is likely to have a different cost structure than Oregon.⁷⁸ The Arbitrator properly found that "there is insufficient evidence in the record to verify that the costs incurred by Qwest in New Mexico closely approximate those incurred in Oregon."⁷⁹

Eschelon introduced statistics in the record showing common characteristics among the six large Qwest states: Arizona, Colorado, Minnesota, Oregon, Utah and Washington.⁸⁰ Eschelon also included the data for New Mexico. As can be seen in the table on page 154 of the rebuttal testimony of Mr. Denney of Eschelon (Exhibit Eschelon 125), New Mexico has the highest loop rate, the fewest wire centers, the fewest switched access lines, the lowest levels of competition, and by far the lowest line density of these states in the Qwest service territory.⁸¹ The significant relationship of density to costs is recognized in the FCC rules on geographic deaveraging based on density-related zones.⁸² Similarly, the FCC has said: "In general, we found that the states where the model

⁷⁶ Arbitrator's Decision, p. 78 (first paragraph).

⁷⁷ Eschelon/125, Denney/153-154.

⁷⁸ Eschelon/125, Denney/153-154.

⁷⁹ Arbitrator's Decision, p. 82 (first paragraph).

⁸⁰ Eschelon/125, Denney/153-154.

⁸¹ Only Qwest's serving territory in Montana, South Dakota and Wyoming is less dense than New Mexico. Eschelon/125, Denney/154, footnote 437.

⁸² 47 C.F.R. §51.507(f).

estimated the highest costs were those states in which the territory served by the non-rural carriers, which are typically larger carriers, included more rural areas than in other states.”⁸³

Eschelon does not do business in New Mexico and consequently did not participate in the proceeding that developed the New Mexico rates.⁸⁴ The Arbitrator states: “the rates resulting from Eschelon’s averaging process are consistently lower than the rates that would have resulted if other states had been included in the averaging calculation. The overall result suggests a methodological bias in favor of lower rates.”⁸⁵ Based on the experience of Eschelon’s witness, however, the six large states in Qwest’s region are similar not only because they are more densely populated but also because they are most likely to have contested cost cases involving the largest CLECs in Qwest’s region.⁸⁶ Consistent with this, when Qwest argued that New Mexico’s rates should be used as interim rates because the rates have been scrutinized, Qwest pointed out, as evidence of that claim, that a large CLEC (MCI) participated in that case.⁸⁷ Mr. Denney monitored and participated in cost cases in Qwest territory on behalf of AT&T before joining Eschelon, where he continues to monitor and participate in cost cases in Qwest territory.⁸⁸ He testified:

⁸³ Tenth Report and Order, *In the Matter of Federal-State Joint Board on Universal Service Forward-Looking Mechanism for High Cost Support for Non-Rural LECs*, CC Docket Nos 96-45, 97-160 (Nov. 2, 1999), ¶ 26.

⁸⁴ Although the Arbitrator recommends use of a methodology based on approved rates in the other 13 Qwest states (as discussed below), the burden on Eschelon would then be to expend substantial resources to participate in cost cases in many states in which Eschelon does not do business. Therefore, although Eschelon offers an alternative proposal based on adjustments to the ALJ Methodology in the event that the Commission adopts the ALJ Methodology, Eschelon’s initial rate proposals represent the better interim rate solution.

⁸⁵ See Arbitrator Decision, p. 81. As discussed above, Eschelon’s acceptance of Qwest’s proposed rate as interim rates for more than 250 rates, as part of Eschelon’s overall methodology, disproves any suggestion of a bias toward lower rates.

⁸⁶ Eschelon/9, Denney/58.

⁸⁷ Qwest/16, Million/24, line 11.

⁸⁸ Eschelon/9, Denney/3-4.

I have been involved in UNE cost dockets across the Qwest territory since 1997 and have followed Commission ordered rates in the Qwest states since that time. . . . AT&T was a major player in *most initial cost cases* in the Qwest region and continued its involvement *in the large states (AZ, CO, OR, UT and WA) in the later rounds of cost cases*. AT&T's competing cost models and deep pockets to provide the support for these models will be sorely missed by the CLEC community.⁸⁹

Decreased participation by AT&T, then a major CLEC player, in cost cases thus reduced the degree to which Qwest's rates were contested. It is undisputed that Eschelon also did not participate in Qwest cost cases outside of Arizona, Colorado, Minnesota, Oregon, Utah, and Washington (the Qwest states in which Eschelon does business).

Qwest, a participant in all of its cost cases, was quick to point out in testimony the participation of MCI in New Mexico,⁹⁰ but Qwest provided no evidence of participation of large CLECs in cost cases in any of the other small states to attempt to rebut Eschelon's testimony. Although the Arbitrator pointed out Qwest's argument that there is no reason to believe that rates approved in the smaller states were subjected to less scrutiny,⁹¹ the unrebutted evidence shows there was decreased CLEC participation in the smaller states.

The Commission can assess for itself the differences in the level of activity or scrutiny that occurs when matters before the Commission receive little if any opposition, as opposed to being hotly contested. In addition, no matter how excellent the staff, many matters compete for staff resources, so that participation of a large CLEC(s) increases the amount of scrutiny that can occur. The overall result of lower rates in the larger states (referred to by the Arbitrator⁹²) is consistent with the Eschelon proposition that cost case

⁸⁹ Eschelon/125, Denney/150, lines 6-8 & 13-17.

⁹⁰ Qwest/16, Million/24, line 11.

⁹¹ Arbitrator's Decision, p. 81.

⁹² Arbitrator's Decision, p. 81.

participation by large CLECs, which have resources to contest Qwest's proposed rates, reasonably results in lower approved rates. In addition, it stands to reason that the overall result in the more urban, larger states would generally be lower rates, not because of any bias, but because costs are more likely to be lower in more densely-populated states such as Oregon and generally higher in relatively rural states such as New Mexico, Montana, South Dakota, Wyoming, etc.,⁹³ as discussed above.

At one point, the Arbitrator states that the "only significant limitation" of Qwest's rate methodology is the insufficient evidence in the record to verify that the costs incurred by Qwest in New Mexico closely approximate those incurred by Oregon.⁹⁴ Another significant limitation is that Qwest *fails to follow its own methodology* when proposing interim rates. The Arbitrator summarizes Qwest's rate methodology as follows:

First, the New Mexico rate would apply only if it is less than the comparable rate generated by Qwest's unapproved Oregon cost study in docket UM 1025. Second, if New Mexico did not establish a rate for a particular element, the interim rate is the rate produced by Qwest's UM 1025 cost study, minus 30 percent.⁹⁵

Qwest failed to follow its own methodology 28 times, or for approximately 20 percent of the 137 unique rate proposals:⁹⁶

In 10 instances, Qwest chose the higher of the approved rates in Oregon and New Mexico, not the lower rate.⁹⁷ For example, New Mexico ordered the miscellaneous charge in Section 9.20.10 of Exhibit A (rates) for Date Change of \$7.27. Eschelon proposed a rate of \$7.47. Qwest ignored the New Mexico rate

⁹³ Eschelon/125, Denney/153-154. The Arbitrator agreed that a "significant" limitation of Qwest's proposed methodology is inadequate evidence that the costs incurred by Qwest in New Mexico closely approximate those incurred in Oregon, as discussed above. See Arbitrator's Decision, p. 82.

⁹⁴ Arbitrator's Decision, p. 82 (first paragraph).

⁹⁵ Arbitrator's Decision, p. 78. See also Qwest/16, Million/25, lines 17-26.

⁹⁶ The 137 unique rate proposals does not include design changes or expedites, which are handled separately in the Arbitrator's Decision.

⁹⁷ See Attachment 1 rate elements 8.7.2.1, 8.7.2.2, 8.7.2.3, 8.17.12, 9.2.5.5.1.2, 9.2.5.5.2.2, 9.2.6.5.1.2, 9.2.6.5.2.2, 9.20.10, and 17.1.

and its “rate methodology” and instead proposed the unapproved rate in Oregon of \$48.66.

In 15 instances, Qwest proposed the unapproved rates in New Mexico rather than the UM 1025 rates minus 30 percent.⁹⁸ For example, New Mexico does not have an ordered rate for the collocation rate element DC Power Reduction and Restoration, 8.13.1.3 Power Off, per Feed Set, per Secondary Feed. New Mexico has an unapproved rate of \$1,057.79 while Oregon has an unapproved rate of \$802.04. Under Qwest’s methodology, where the New Mexico rate is unapproved, Qwest should use the Oregon rate less 30%. This would result in a rate of \$561.43. Note that Eschelon proposed a rate of \$587.00. Not only did Qwest fail to reduce the Oregon proposed rate by 30%, Qwest proposed using the higher New Mexico unapproved rate.

Finally, in the other three instances, it is unclear from where Qwest’s proposal was derived.⁹⁹ For example, New Mexico does not have an approved rate for Exhibit A’s Section 10.7.12.1 Microduct Occupancy Fee, per Microduct, per Foot, per Year. The unapproved rate in New Mexico is \$0.2404. The unapproved rate in Oregon is \$0.4681. Qwest’s proposed rate in this arbitration is \$0.2092, which is not the Oregon unapproved rate, the New Mexico unapproved rate or 30% less the Oregon unapproved rate. Eschelon’s proposed rate for this rate element is \$0.2645.

It is also undisputed that Qwest did not follow prior Commission orders in proposing its interim rates. For example, in a previous cost docket, UT 138 / 139, the Commission held that “work times and probabilities shall remain in effect until such time as USWC and GTE file revised analyses that are approved by the Commission.”¹⁰⁰ To the extent that Qwest’s “methodology” relied on its cost study, Qwest’s cost study represents its advocacy regarding appropriate rates and does not incorporate prior Commission decisions regarding labor times, flow through, separation of mechanical and manual ordering, and overhead factors.¹⁰¹

⁹⁸ See Attachment 1 rate elements 8.1.8.1.4.1 (RC & NRC), 8.1.8.1.4.2 (RC & NRC), 8.1.8.1.4.3 (RC), 8.1.8.1.4.4 (RC & NRC), 8.1.16, 8.8.4, 8.13.1.2.1, 8.13.1.2.2, 8.13.1.2.3, 8.13.1.3, 8.13.1.4, and 8.13.2.1.

⁹⁹ See Attachment 1 rate elements 8.7.3.2, 10.7.12, and 10.7.12.1.

¹⁰⁰ Order No. 98-444, p. 82. (See Eschelon/23)

¹⁰¹ The Commission’s orders in UT 138/UT 139 established a set of inputs that should apply to Qwest’s non-recurring cost studies. This includes separation of manual and mechanical ordering costs (Order No. 98-444, p. 71) a flow through rate of 98% in the ordering process (Order No. 03-085, page 3

b. Arbitrator's Recommended Methodology

Having rejected Qwest's methodology, the Arbitrator recommends that interim rates be set using the following methodology:¹⁰²

To better accommodate the interests of both parties, the Commission should establish interim rate levels using an average of all commission-approved rates within Qwest's service territory, excluding the highest and lowest rates from the calculation.¹⁰³ This approach addresses the principal concerns expressed by both parties. Specifically, including all commission-approved rates in the overall average eliminates Qwest's concern over "selective averaging," as well as Eschelon's concern about relying on the cost results from a single state. In addition, removing both the highest and lowest rates from the averaging calculation will have a smoothing effect that does not negatively impact either party. . . .

In making interim rate calculations, the parties should confine themselves to commission-approved rates in the Qwest states listed above. The number of states included in the average may vary if all of the above-mentioned Qwest states have not adopted a rate for a particular product, service, or element.¹⁰⁴ In the unlikely event that less than two states have adopted a rate for a particular product, service, or element, the applicable rate approved by the New Mexico Commission should be used as the interim rate.

Attachment 1 to these Comments is a spreadsheet showing each interim rate element calculated per the Arbitrator's recommended methodology ("ALJ Methodology"). In addition, Attachment 1 contains the interim rate proposals of the parties and data needed to calculate interim rates using the ALJ Methodology.¹⁰⁵

and Order No. 98-444, p. 71), a reduction to labor times and probabilities (Order No. 03-085, page 11 and Order No. 98-444, p. 82), and updates to Qwest's overhead factors (Order No. 98-444, p. 101). (See Eschelon/23.)

¹⁰² Quoting from Arbitrator's Decision, p. 82.

¹⁰³ "For example, if 11 states have approved a rate for a particular product or service, the highest and lowest rates will be removed from the calculation, producing an average based on rates from the remaining nine states." Arbitrator's Decision, p. 82, footnote 246.

¹⁰⁴ "The interim rates adopted elsewhere in this order for loop-design/CFA changes (Issue 4-5) and fee-based expedites (Issue 12-67) are not subject to the averaging process." Arbitrator's Decision, p. 82, footnote 247.

¹⁰⁵ The columns in Attachment 1 show, by rate element, whether the rate is recurring ("RC") or non-recurring ("NRC"), Qwest's Original Proposed Rate, New Mexico's rate, Qwest's Final Proposed Rate, Eschelon's Proposed Rate (#1), the 13-State Average (followed by the number of states with approved rates to be included in the average), the 5-state average (followed by the number of states with approved rates to be included in the average), the 13-state low, the 13-state high, the rates derived using the ALJ Methodology, and notes.

c. Guiding Principle and Eschelon's Proposed Alternative Interim Rates

In 63 cases, the ALJ Methodology produces a rate greater than Qwest's proposed rate. In 16 cases, the ALJ Methodology produces a rate lower than Eschelon's proposed rate. The recommended interim rates based on the ALJ Methodology fall into two broad categories: (1) the *expected* scenario in which Qwest (the ILEC, which generally charges the rate so prefers a higher rate) has proposed a rate that is higher than Eschelon (the CLEC, which generally pays the rate so prefers a lower rate); and (2) the *irregular* scenario in which Qwest's proposed rate is lower than Eschelon's proposed rate. It is illogical that the rates in the irregular category are not closed with Qwest's proposed rate, as Eschelon agrees to pay the rate proposed by Qwest.¹⁰⁶ There are 108 interim rates in the expected scenario and 29 interim rates in the irregular scenario, for a total of 137 interim rates.¹⁰⁷

The Arbitrator would not have known these facts at the time of issuing the recommended decision, because the Arbitrator had developed the methodology but not calculated the results.¹⁰⁸ The results, however, shed light on areas in which the ALJ Methodology, if used, should be improved. After all, this is an arbitration between two parties. Both parties recognized that permanent rates may be different from interim rates (with Qwest generally suggesting the permanent rate would be higher, and Eschelon generally suggesting the interim rate would be lower). The interim rates *for both parties*

¹⁰⁶ Eschelon/125, Denney/157, line 13.

¹⁰⁷ The total of 150 cited by the Arbitrator was an approximate number. In addition, some rate issues may have closed, and the Arbitrator excluded the interim rates for Issue 4-5 and 12-67. Also, as indicated in the notes column of Attachments 1 & 2, some of the rates are used for multiple rate elements.

¹⁰⁸ Arbitrator's Decision, p. 82.

represent a compromise in the meantime until permanent rates are established in a cost docket.¹⁰⁹

It is reasonable to expect that an interim rate adopted by the Commission, if not either of the proposals made by the parties, would at least fall somewhere in between them. In other words, *as a guiding principle, the rate proposals made by each party in this case should define the lower and upper bounds of the interim rate.* Eschelon has applied this guiding principle to the recommended ALJ Methodology to derive proposed alternative interim rates. (Attachment 2 to these Comments is a summary document which shows, in column F, Eschelon's proposed alternative resolution for each interim rate.¹¹⁰) Therefore, under Eschelon's alternative proposal (column F of Attachment 2), the parties' rate proposals define the lower and upper bounds of the interim rate, as further described below.¹¹¹ These rates are offered in the alternative, should the Commission not adopt Eschelon's first proposal (as shown on pages 102-117 of the Disputed Issues List).

Eschelon has provided a diagram to depict its alternative proposal in the expected scenario in which Qwest's proposed rate is higher than Eschelon's proposed rate. It is

¹⁰⁹ As to Eschelon, see Eschelon/133, Denney/140, lines 7-15.

¹¹⁰ The columns in Attachment 2 show, by rate element, whether the rate is recurring ("RC") or non-recurring ("NRC") [column A], Qwest's Final Proposed Rate [column B], Eschelon's Proposed Rate (#1) [column C], the ALJ Methodology Rate [column D], a hypothetical example in the irregular scenario [column E], Eschelon's Alternative Proposed Rate (#2) [column F], and notes [column G]. For Column E, the modified ALJ method is applied to the irregular scenario to show that the result is an illogical one in which the resulting rates are higher than the rates proposed by Qwest here, as discussed further below.

¹¹¹ There were 7 rates for which the ALJ Methodology produced no rate. In these situations, when the high and low rates were excluded as recommended by the Arbitrator, there was no approved rate in New Mexico to use in the calculation. Of these 7 rates, 4 are in the expected category, and 3 are in the irregular category (and, as to 1 of these, the rate proposed by Qwest and Eschelon were the same). For Eschelon's alternative proposal (column F of Attachment 2), Eschelon used the rate proposed by both parties for that 1 rate; Qwest's proposed rate for the 2 rates in the irregular category; and an average of the rates proposed by Qwest and Eschelon for the 4 rates in the expected category (when Qwest's proposed rate is higher than Eschelon's proposal).

attached to these Comments as the first diagram (3-A) in **Attachment 3**. Diagram 3-A shows for the *expected* scenario:

- If the ALJ Methodology results in a recommended rate that is lower than Eschelon's proposed rate, the higher rate proposed by Eschelon is used as Eschelon's alternative proposed rate;
- If the ALJ Methodology results in a rate that is higher than Eschelon's proposed rate but lower than Qwest's proposed rate, Eschelon uses the Arbitrator's proposed rate instead of Eschelon's lower proposal as Eschelon's alternative proposed rate; and
- If the ALJ Methodology results in a recommended rate that is higher than Qwest's proposed rate, Eschelon accepts Qwest's proposed rate instead of Eschelon's lower proposal for use as Eschelon's alternative proposed rate.

Diagram 3-B shows the *irregular* scenario. Regarding the *irregular* scenario, the issues should be resolved by adopting Qwest's proposed rates (as reflected in Column F of Attachment 2), since Qwest proposed them and Eschelon accepts them. Qwest may argue, however, that Qwest should receive its own proposed rate, unless the ALJ Methodology rate or the Eschelon rate is higher, in which case Qwest should receive a higher rate – despite Qwest's having proposed the lowest of the three rates in this proceeding. The result of that approach is shown in Column E of Attachment 2. The result is illogical, given that the rates proposed by Qwest in this scenario are lower than Eschelon's proposed rate in every case and lower than the rate using the ALJ Methodology for all but 4 rates.

The Commission should adopt Eschelon's proposed interim rates in this matter (as shown on pages 102-117 of the Disputed Issues List). In the alternative, the Commission should adopt Eschelon's alternative proposed rates that are based on adjustments to the ALJ Methodology using the guiding principle (as shown in column F of Attachment 2).

**C. ARBITRATOR’S RECOMMENDATIONS TO ADOPT
ESCHELON’S PROPOSALS SHOULD BE ADOPTED**

The Arbitrator’s various recommendations to adopt Eschelon’s proposed language are summarized in Attachment A to the Arbitrator’s Decision.

1. Example: Issues 12-71 – 12-73 (Jeopardies)

The recommendations to adopt Eschelon’s proposed language are well grounded in the record. For example, every sentence and phrase of Eschelon’s proposed language for Issues 12-71 – 12-73 (Jeopardies) is supported by the record, including Qwest documentation and admissions, as shown in greater detail in Attachment 1 to Eschelon’s Post-Hearing Brief (“Evidence in the Record Supporting Eschelon’s Jeopardy Proposals”).¹¹²

In its testimony, Qwest attacked a particular phrase in Eschelon’s Jeopardies language (“at least the day” before).¹¹³ Therefore, Qwest may argue that, if the Commission adopts Eschelon’s proposed language on Jeopardies, as recommended by the Arbitrator, the Commission should modify Eschelon’s language to delete the phrase “at least the day” immediately preceding the phrase “before Qwest attempts to deliver the service” in ICA Section 12.2.7.2.4.4.1 (Issue 12-72).¹¹⁴ If so, the Commission should reject this proposal.

It may appear that such a modification would be movement toward resolution on Qwest’s part. The phrase that Qwest sought in testimony to delete, however, goes to the crux of the issue. That phrase (“at least the day” before) provides a designated time

¹¹² Issues 12-71 – 12-73 (Jeopardies) are addressed on pages 139-173 of Eschelon’s Post-Hearing Brief.

¹¹³ Qwest/18 Albersheim/46, lines 6-8.

¹¹⁴ See Disputed Issues List, p. 94.

frame for Qwest to provide timely notice to Eschelon as to when Qwest will be delivering service in the particular scenario addressed by the Jeopardies language (when Qwest has insufficient facilities or a problem with the facilities). Eschelon needs to plan and schedule resources for Qwest delivery of a circuit that Eschelon will use to serve its end users. Therefore, Eschelon requested a designated *time frame* to allow Eschelon a reasonable amount of time to prepare to accept a circuit/service.¹¹⁵ The time frame is the very thing that the Arbitrator found Eschelon should receive by recommending Eschelon’s language: “It is not possible to reconcile this outcome with the purpose of the FOC, which is to provide Eschelon with *advance notice* so that it has a *reasonable amount* of time to prepare to accept a circuit.”¹¹⁶

To illustrate the Jeopardies problem, Eschelon provided an example in the record in which Qwest failed to provide timely notice and instead notified Eschelon only *nine minutes* before showing up to deliver a circuit.¹¹⁷ This deprived Eschelon of a reasonable amount of time to prepare to accept it, and caused a delay. The Arbitrator’s recommended resolution would help ensure timely notice to avoid customer-affecting delays. A proposal to modify the Arbitrator’s recommended resolution, by deleting the time frame, would ensure that Qwest could provide untimely notice, including literally only *minutes* before circuit delivery, with no consequence to Qwest, while increasing the possibility of delay for Eschelon and its End User Customers. All of the state Qwest-Eschelon ICA arbitration decisions (one Commission decision and three arbitrators’

¹¹⁵ Eschelon/111, Johnson/2 (Change Request PC081403-1 – title, description of change and expected deliverable in CMP quoted below with respect to Qwest’s third claim); *see also* Eschelon/111, Johnson/5 (Qwest CMP minutes state: “Bonnie [Eschelon] confirmed that the CLEC should *always* receive the FOC *before the due date*. Phyllis [Qwest] agreed . . .”) (emphasis added); *see also* Eschelon/113, Johnson 3 (February 26, 2004 CMP materials prepared and distributed by Qwest).

¹¹⁶ Arbitrator’s Decision, p. 70 (last paragraph) (emphasis in original for “advance notice”; other emphasis added).

¹¹⁷ Eschelon/115, Johnson/14 (Row 11).

decisions, including Oregon) to date have rejected Qwest’s arguments and recommend that Eschelon’s Jeopardies proposal, including the phrase “at least the day” before, should be included in the ICA.¹¹⁸

Qwest, when attacking the phrase “at least the day before,” claimed that the phrase was not part of the Jeopardies process developed in CMP.¹¹⁹ That Eschelon successfully rebutted this evidence is shown by the following Arbitrator’s findings:

Eschelon has presented substantial evidence demonstrating that Qwest has already committed in the CMP to provide the FOC one day in advance of the service delivery.¹²⁰

Qwest’s refusal to acknowledge its CMP commitment, in its past practice of improperly assigning CNRs,¹²¹ and the need to ensure adequate notice in the future all substantiate Eschelon’s position that jeopardy language must be included in the ICA to provide the requisite level of business certainty.¹²²

The Arbitrator recognized the need for contractual certainty and appropriately recommended Eschelon’s Jeopardies language should be included in the ICA. The Commission should adopt the Arbitrator’s recommendation, without modification, as to Issues 12-71 – 12-73 (Jeopardies). Jeopardies illustrates the evidence in the record supporting Eschelon’s ICA language proposals. The Commission should also adopt each of the Arbitrator’s recommendations to use Eschelon’s proposed language for additional issues, as identified in Attachment A to the Arbitrator’s Decision.

2. Recommendations to adopt Eschelon’s proposed language

¹¹⁸ Arizona: AZ ALJ Report, p. 88, line 4; Minnesota: Eschelon/30 Denney/23, [MN PUC Arbitration Order #6, topic 31]; Oregon: Arbitrator’s Decision, pp. 69-71; and Washington: WA ALJ Report, ¶152. As noted earlier, as of the drafting of these Comments, arbitrator decisions have not yet been received for the other two states (Colorado and Utah).

¹¹⁹ Qwest/18 Albersheim/46, lines 6-8.

¹²⁰ Arbitrator’s Decision, p. 71 (first paragraph). Similarly, the arbitrator in Washington found that “Eschelon’s language reflects terms developed through the CMP but these terms have more stability in the ICA than on the website.” WA ALJ Report, ¶152.

¹²¹ “Eschelon provided several examples where Qwest provided no FOC at all, yet claimed that it was appropriate to classify the missed due date as an Eschelon-caused CNR. Eschelon/115; Eschelon Brief at 161. See also Qwest/18, Albersheim/55.” Arbitrator’s Decision, p. 71, footnote 208.

¹²² Arbitrator’s Decision, p. 71 (first paragraph)

Each of the Arbitrator's recommendations to adopt Eschelon's language (which are summarized in Attachment A to the Arbitrator's Decision) should be affirmed, for the reasons provided in Eschelon's testimony and briefing, and in the Arbitrator's Decision.

III. CONCLUSION

Eschelon's proposed interconnection agreement language should be adopted. If the Commission adopts the recommendations of the Arbitrator, Eschelon requests the following modifications:

1. Regarding intervals (Issue 1-1 and subparts), adopt Eschelon's language for Issues 1-1 and subparts (Intervals).

2. Regarding unapproved rates:

a. Adopt Eschelon's proposed contract language for Sections 22.6.1 and 22.6.1.1 or, *in the alternative*, adopt the following contract language regarding unapproved rates:

22.6.1 Qwest shall obtain Commission approval before charging for a product or service, or access to a product or service,¹²³ that Qwest has provided previously at no additional charge. Qwest may request a generic cost proceeding pursuant to Commission rules and procedures or, if the rate is negotiated, may request Commission approval of an amendment to this Agreement.

b. Adopt Eschelon's proposed interim rates in this matter (as shown on pages 102-117 of the Disputed Issues List) or, *in the alternative*, adopt Eschelon's proposed rates based on adjustments to the ALJ Methodology using the guiding principle (as shown in column F of Attachment 2).

¹²³ Instead of "a product or service, or access to a product or service," the Minnesota Commission used the phrase of "UNE or process" (see above footnote), which would also be acceptable.

Eschelon appreciates the Commission's and the Arbitrator's consideration of these issues.

Dated: April 28, 2008

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Attachment 1 - Rate Proposals and Associated Data

Rate Element	RC / NRC	Quest's Original Proposed Rates	New Mexico	Quest's Final Proposed Rates	Escheator's Proposed Rates (M)	13 State Average	#	5 State Average	#	13 State Low	13 State High	ALL Methodology	Notes
8.0 Collocation													
8.1 All Collocation													
8.1.1 Planning and Engineering	NRC	\$ 1,608.68	Unapproved	\$ 1,126.01	\$ 700.25	\$ 1,170.95	7	\$ 903.56	7	\$ 345.00	\$ 1,489.56	\$ 1,272.62	8.8.1, 8.12.2 also use this rate.
8.1.1.2 Cable Alignment Quote Preparation Fee													
8.1.2 Entrance Facility													
8.1.2.2 Capless & Caped Standard Shared, per Fiber	RC	\$ 5.92	\$ 6.36	\$ 5.92	\$ 4.14	\$ 7.32	12	\$ 7.10	12	\$ 3.40	\$ 18.65	\$ 6.58	
8.1.2.3 Cross Connect, per Fiber	RC	\$ 6.09	\$ 6.52	\$ 6.09	\$ 3.66	\$ 6.50	11	\$ 4.85	11	\$ 2.72	\$ 18.95	\$ 5.53	
8.1.2.4 Express, per Cable	RC	\$ 96.38	\$ 103.32	\$ 96.38	\$ 21.49	\$ 90.43	12	\$ 57.19	12	\$ 2.90	\$ 323.79	\$ 75.85	
8.1.2.4 Express, per Cable	NRC	\$ 99,415.02	\$ 99,590.32	\$ 99,415.02	\$ 20,279.08	\$ 6,659.83	12	\$ 3,522.19	12	\$ 1,058.05	\$ 9,920.95	\$ 6,903.90	
8.1.5 AC Power Feed													
8.1.5.1 AC Power Feed, per Amp, per Month	RC	\$ 19.98	\$ 19.15	\$ 19.15	\$ 17.13	\$ 17.96	12	\$ 17.13	12	\$ 15.48	\$ 20.13	\$ 17.99	
8.1.5.1.2 120 V, Single Phase	RC	\$ 34.63	\$ 33.19	\$ 33.19	\$ 29.69	\$ 31.13	12	\$ 29.69	12	\$ 26.83	\$ 34.89	\$ 31.18	
8.1.5.1.3 208 V, Three Phase	RC	\$ 59.92	\$ 57.41	\$ 57.41	\$ 51.37	\$ 53.85	12	\$ 51.37	12	\$ 46.42	\$ 60.37	\$ 53.94	
8.1.5.1.4 240 V, Single Phase	RC	\$ 39.96	\$ 38.29	\$ 38.29	\$ 34.26	\$ 35.92	12	\$ 34.26	12	\$ 30.96	\$ 40.26	\$ 35.98	
8.1.5.1.5 240 V, Three Phase	RC	\$ 69.13	\$ 66.24	\$ 66.24	\$ 59.27	\$ 62.14	12	\$ 59.27	12	\$ 53.57	\$ 69.65	\$ 62.24	
8.1.5.1.6 480 V, Three Phase	RC	\$ 138.27	\$ 132.48	\$ 132.48	\$ 118.55	\$ 124.27	12	\$ 118.55	12	\$ 107.13	\$ 139.30	\$ 124.48	
8.1.8 Collocation Terminations													
8.1.8.1 Shared Access													
8.1.8.1.1 DS0													
8.1.8.1.1.1 Cable Placement, per 100 Pair Block	RC	\$ 0.37	\$ 0.1616	\$ 0.1616	\$ 0.32	\$ 0.39	10	\$ 0.60	10	\$ 0.1616	\$ 0.91	\$ 0.36	
8.1.8.1.1.2 Cable Placement, per 100 Pair Block	NRC	\$ 230.24	\$ 219.53	\$ 219.53	\$ 127.42	\$ 228.18	10	\$ 233.44	10	\$ 186.10	\$ 300.66	\$ 223.84	
8.1.8.1.1.3 Cable, per 100 Pair Block	RC	\$ 0.52	\$ 0.2447	\$ 0.2447	\$ 0.45	\$ 0.53	10	\$ 0.82	10	\$ 0.2447	\$ 1.2381	\$ 0.47	
8.1.8.1.1.3.1 Blocks, per 100 Pair Block	NRC	\$ 321.83	\$ 332.39	\$ 321.83	\$ 178.10	\$ 317.43	10	\$ 318.63	10	\$ 273.58	\$ 340.15	\$ 320.45	
8.1.8.1.1.3.2 Blocks, per 100 Pair Block	RC	\$ 0.91	\$ 0.4237	\$ 0.4237	\$ 0.78	\$ 0.91	9	\$ 1.41	9	\$ 0.4237	\$ 2.14	\$ 0.81	
8.1.8.1.1.3.3 Blocks, per 100 Pair Block	NRC	\$ 561.07	\$ 575.56	\$ 561.07	\$ 310.50	\$ 548.26	9	\$ 542.94	9	\$ 474.07	\$ 588.19	\$ 553.02	
8.1.8.1.1.7 Block Placement, per 100 Pair Block	RC	\$ 0.39	\$ 0.1692	\$ 0.1692	\$ 0.33	\$ 0.49	10	\$ 0.62	10	\$ 0.1692	\$ 1.52	\$ 0.39	
8.1.8.1.1.7.1 Block Placement, per 100 Pair Block	NRC	\$ 242.31	\$ 229.84	\$ 229.84	\$ 134.10	\$ 267.61	10	\$ 242.11	10	\$ 195.86	\$ 576.77	\$ 233.69	
8.1.8.1.2 DS1													
8.1.8.1.2.1 Cable Placement, per 28 DS1s	RC	\$ 0.60	\$ 0.5298	\$ 0.5298	\$ 0.47	\$ 0.68	9	\$ 0.84	9	\$ 0.41	\$ 1.10	\$ 0.66	
8.1.8.1.2.2 Cable Placement, per 28 DS1s	NRC	\$ 399.70	\$ 382.40	\$ 382.40	\$ 207.44	\$ 382.05	9	\$ 386.26	9	\$ 323.07	\$ 444.93	\$ 381.49	
8.1.8.1.2.3 Cable, per 28 DS1s	RC	\$ 0.56	\$ 0.5316	\$ 0.5316	\$ 0.44	\$ 0.65	9	\$ 0.80	9	\$ 0.40	\$ 1.04	\$ 0.63	
8.1.8.1.2.3.1 Panel, per 28 DS1s	NRC	\$ 371.50	\$ 393.73	\$ 371.50	\$ 192.80	\$ 366.46	9	\$ 367.91	9	\$ 315.80	\$ 392.69	\$ 369.96	
8.1.8.1.2.3.2 Panel, per 28 DS1s	RC	\$ 0.39	\$ 0.3028	\$ 0.3028	\$ 0.31	\$ 0.60	9	\$ 0.89	9	\$ 0.27	\$ 1.18	\$ 0.56	
8.1.8.1.2.3.3 Panel, per 28 DS1s	NRC	\$ 256.52	\$ 218.52	\$ 218.52	\$ 133.13	\$ 320.79	9	\$ 410.20	9	\$ 206.76	\$ 473.36	\$ 315.28	
8.1.8.1.2.7 Panel Placement, per 28 DS1s	RC	\$ 0.12	\$ 0.1083	\$ 0.1083	\$ 0.09	\$ 0.17	9	\$ 0.18	9	\$ 0.08	\$ 0.38	\$ 0.15	
8.1.8.1.2.7.1 Panel Placement, per 28 DS1s	NRC	\$ 82.31	\$ 78.17	\$ 78.17	\$ 42.72	\$ 94.29	9	\$ 82.85	9	\$ 66.53	\$ 224.38	\$ 79.67	
8.1.8.1.3 DS3													
8.1.8.1.3.1 Cable Placement, per Termination	RC	\$ 0.22	\$ 0.34	\$ 0.2200	\$ 0.17	\$ 0.30	9	\$ 0.45	9	\$ 0.15	\$ 0.61	\$ 0.27	
8.1.8.1.3.2 Cable, per Termination	NRC	\$ 147.89	\$ 247.80	\$ 147.89	\$ 73.22	\$ 160.87	9	\$ 189.35	9	\$ 119.54	\$ 247.37	\$ 154.41	
8.1.8.1.3.3 Connector, per Termination	RC	\$ 0.36	\$ 0.1993	\$ 0.1993	\$ 0.27	\$ 0.40	9	\$ 0.41	9	\$ 0.26	\$ 0.67	\$ 0.39	
8.1.8.1.3.3.1 Connector, per Termination	NRC	\$ 239.90	\$ 141.65	\$ 141.65	\$ 118.77	\$ 227.47	9	\$ 196.30	9	\$ 164.82	\$ 253.58	\$ 232.69	
8.1.8.1.3.3.2 Connector, per Termination	RC	\$ 0.37	\$ 0.3514	\$ 0.3514	\$ 0.28	\$ 0.39	9	\$ 0.52	9	\$ 0.05	\$ 0.69	\$ 0.39	
8.1.8.1.3.3.3 Connector Placement, per Termination	NRC	\$ 245.44	\$ 253.65	\$ 245.44	\$ 121.51	\$ 216.83	9	\$ 239.48	9	\$ 27.40	\$ 256.65	\$ 237.78	
8.1.8.1.3.4 Connector Placement, per Termination	RC	\$ 0.03	\$ 0.0271	\$ 0.0271	\$ 0.02	\$ 0.04	9	\$ 0.05	9	\$ 0.02	\$ 0.07	\$ 0.04	
8.1.8.1.3.4.1 Connector Placement, per Termination	NRC	\$ 19.88	\$ 19.53	\$ 19.53	\$ 9.84	\$ 20.91	9	\$ 23.46	9	\$ 16.07	\$ 25.52	\$ 20.94	
8.1.8.1.4 Fiber													
8.1.8.1.4.1 Terminations, per 12 Fibers	RC	\$ 15.01	Unapproved	\$ 12.39	\$ 12.39	\$ 23.44	4	\$ 23.44	4	\$ 13.34	\$ 28.32	\$ 26.05	
8.1.8.1.4.1.1 Additional Connector, if Applicable	NRC	\$ 1,670.87	Unapproved	\$ 1,601.47	\$ 1,601.47	\$ 1,541.04	4	\$ 1,541.04	4	\$ 1,350.54	\$ 1,681.88	\$ 1,575.88	
8.1.8.1.4.2 Additional Connector, if Applicable	RC	\$ 0.68	Unapproved	\$ 0.53	\$ 0.53	\$ 0.59	4	\$ 0.59	4	\$ 0.47	\$ 0.76	\$ 0.57	
8.1.8.1.4.3 Cable Racking, Shared, per 12 Fibers	NRC	\$ 454.34	Unapproved	\$ 435.47	\$ 435.47	\$ 418.04	4	\$ 418.04	4	\$ 367.23	\$ 451.89	\$ 428.51	
8.1.8.1.4.4 Cable Racking, Dedicated	RC	\$ 23.49	Unapproved	\$ 19.61	\$ 19.61	\$ 19.60	4	\$ 19.61	4	\$ 2.24	\$ 27.99	\$ 24.10	
8.1.8.1.4.4.1 Cable Racking, Dedicated	NRC	\$ 2.38	Unapproved	\$ 1.85	\$ 1.85	\$ 2.10	4	\$ 2.10	4	\$ 1.63	\$ 2.76	\$ 2.00	
8.1.8.1.4.4.2 Cable Racking, Dedicated	RC	\$ 1,562.66	Unapproved	\$ 1,516.92	\$ 1,516.92	\$ 1,478.13	4	\$ 1,478.13	4	\$ 1,279.24	\$ 1,647.89	\$ 1,462.69	
8.1.9 Security Charges													
8.1.9.2 Card Access, per Employee, per Central Office	RC	\$ 38.40	\$ 7.83	\$ 7.83	\$ 6.20	\$ 7.20	11	\$ 6.11	11	\$ 3.88	\$ 9.05	\$ 7.36	
8.1.12 Space Availability Report Charge													
8.1.14 Collocation Space Option Administration Fee	NRC	\$ 383.94	\$ 234.02	\$ 234.02	\$ 234.38	\$ 282.94	12	\$ 234.38	12	\$ 102.10	\$ 365.21	\$ 282.79	
8.1.16 Joint Inventory Visit Fee, per Visit	NRC	\$ 1,388.22	Unapproved	\$ 788.57	\$ 1,029.40	\$ 1,201.11	10	\$ 1,029.40	10	\$ 588.72	\$ 1,887.20	\$ 1,194.40	
8.2 Virtual Collocation													
8.2.1 Planning and Engineering	NRC	\$ 1,889.49	Unapproved	\$ 1,610.12	\$ 1,610.12	\$ 1,387.10	1	N/A	0			Undetermined	
8.2.1.1 Quote Preparation Fee	NRC	\$ 4,951.46	\$ 929.45	\$ 929.45	\$ 2,317.79	\$ 3,023.55	11	\$ 2,402.46	11	\$ -	\$ 4,539.46	\$ 3,191.07	
8.3 Capless Physical Collocation													

Rate Element	RC / NRC	Quest's Original Proposed Rates	New Mexico	Quest's Final Proposed Rates	Eschehon's Proposed Rates (#1)	#	5 State Average	#	13 State Low	13 State High	ALJ Methodology	Notes
8.3.1 Planning and Engineering												
8.3.1.1 Quote Preparation Fee	NRC	\$ 4,956.18	\$ 929.45	\$ 929.45	\$ 2,317.79	11	\$ 2,402.46	5	\$ -	\$ 4,530.46	\$ 2,921.23	8.15.4.1 also uses this rate.
8.4 Caged Physical Collocation												
8.4.1 Planning and Engineering												
8.4.1.1 Quote Preparation Fee	NRC	\$ 5,403.92	\$ 928.64	\$ 928.64	\$ 2,317.79	11	\$ 2,013.50	5	\$ -	\$ 4,870.04	\$ 2,716.17	8.15.4.2 also uses this rate.
8.4.2 Space Construction and Site Preparation												
8.4.2.4 Space Construction												
8.4.2.4.1 Cage: Up to 100 Sq. Ft.	RC	\$ 56.85	\$ 50.42	\$ 50.42	\$ 41.60	6	\$ 17.56	2	\$ 16.06	\$ 54.43	\$ 37.06	
8.4.2.4.1 Cage: Up to 100 Sq. Ft.	NRC	\$ 37,529.85	\$ 36,390.30	\$ 36,390.30	\$ 26,165.10	6	\$ 5,141.56	2	\$ -	\$ 36,755.70	\$ 27,727.47	
8.4.2.4.2 Cage: 101 to 200 Sq. Ft.	RC	\$ 93.97	\$ 44.73	\$ 44.73	\$ 11.08	6	\$ 27.25	2	\$ 22.37	\$ 32,950.32	\$ 38.98	
8.4.2.4.2 Cage: 101 to 200 Sq. Ft.	NRC	\$ 30,583.95	\$ 32,286.21	\$ 32,286.21	\$ 27,827.3	6	\$ 6,036.30	2	\$ 26.05	\$ 40,246.31	\$ 31,495.82	
8.4.2.4.3 Cage: 201 to 300 Sq. Ft.	RC	\$ 61.92	\$ 55.23	\$ 55.23	\$ 47.7	6	\$ 37.12	2	\$ 30.25	\$ 42,159.89	\$ 32,886.12	
8.4.2.4.3 Cage: 201 to 300 Sq. Ft.	NRC	\$ 41,060.78	\$ 39,862.25	\$ 39,862.25	\$ 29,650.63	6	\$ 7,026.73	2	\$ -	\$ 42,159.89	\$ 32,886.12	
8.4.2.4.4 Cage: 301 to 400 Sq. Ft.	RC	\$ 64.89	\$ 57.86	\$ 57.86	\$ 50.89	6	\$ 47.25	2	\$ -	\$ 42,159.89	\$ 32,886.12	
8.4.2.4.4 Cage: 301 to 400 Sq. Ft.	NRC	\$ 43,042.80	\$ 41,765.60	\$ 41,765.60	\$ 31,977.04	6	\$ 8,161.83	2	\$ -	\$ 42,159.89	\$ 32,886.12	
8.6 Remote Collocation												
8.6.1 Physical & Virtual Remote Collocation												
8.6.1.2 FDI Terminators, per 25 Pair	NRC	\$ 728.37	\$ 521.82	\$ 521.82	\$ 506.82	10	\$ 506.92	4	\$ 420.80	\$ 588.73	\$ 524.71	8.6.2.2.2 also uses this rate.
8.7 CLEC-to-CLEC												
8.7.2 Cable Reaching												
8.7.2.1 DSS1, per foot	RC	\$ 44.80	\$ 0.14	\$ 0.14	\$ 0.148	11	\$ 0.148	5	\$ 0.097	\$ 0.252	\$ 0.126	
8.7.2.2 DSS1, per foot	RC	\$ 44.80	\$ 0.15	\$ 0.15	\$ 0.158	11	\$ 0.158	5	\$ 0.104	\$ 0.265	\$ 0.135	
8.7.2.3 DSS1, per foot	RC	\$ 165.34	\$ 0.13	\$ 0.13	\$ 0.135	11	\$ 0.135	5	\$ 0.088	\$ 0.235	\$ 0.114	
8.7.3 Virtual Connections (if Applicable - Connections Only, No Cables)												
8.7.3.1 DSS0, per 100 Connections	NRC	\$ 214.54	\$ 182.02	\$ 182.02	\$ 191.23	12	\$ 211.38	5	\$ 171.05	\$ 290.43	\$ 210.70	
8.7.3.2 DSS1, per 28 Connections	NRC	\$ 101.03	\$ 89.93	\$ 89.93	\$ 89.56	12	\$ 97.65	5	\$ 81.86	\$ 120.59	\$ 94.90	
8.7.3.3 DSS3, per 1 Connection	NRC	\$ 6.51	\$ 6.14	\$ 6.14	\$ 6.11	12	\$ 7.50	12	\$ 4.51	\$ 13.59	\$ 7.19	
8.7.4 Cable Hole, if Applicable	NRC	\$ 485.15	\$ 463.55	\$ 463.55	\$ 434.08	12	\$ 434.06	5	\$ 355.71	\$ 483.48	\$ 438.16	
8.8 Interconnection Distribution Frame (ICDF) Collocation												
8.8.4 DS3 Circuit, per Two Legs	NRC	\$ 1,225.77	Unapproved	\$ 1,213.31	\$ 612.89	1	N/A	0	\$ 909.49	\$ 909.49	Undetermined	
8.12 Facility Connected (FC) Collocation												
8.12.4 Fiber Entrance Facility, per Cable, minimum 12 Strands	RC	\$ 114.44	\$ 76.32	\$ 71.04	\$ 85.20	12	\$ 85.15	5	\$ 40.80	\$ 223.80	\$ 86.70	
8.12.4 Fiber Entrance Facility, per Cable, minimum 12 Strands	NRC	\$ 8,090.53	\$ 7,877.28	\$ 7,350.96	\$ 10,201.80	12	\$ 10,201.82	5	\$ 4,025.64	\$ 17,579.88	\$ 9,192.86	
8.13 DC Power Reduction and Restoration												
8.13.1 Power Reduction												
8.13.1.1 Quote Preparation Fee, per Office	NRC	\$ 811.18	Unapproved	\$ 567.83	\$ 411.00	3	\$ 706.90	3	\$ 655.67	\$ 761.34	\$ 703.70	
8.13.1.2 Power Reduction, with or without Reservation, per Feed Set	NRC	\$ 624.52	Unapproved	\$ 624.36	\$ 346.00	3	\$ 511.40	3	\$ 494.45	\$ 534.85	\$ 504.79	8.13.2.2.1 also uses this rate.
8.13.1.2.1 Less Than 60 Amps	NRC	\$ 898.00	Unapproved	\$ 878.10	\$ 346.00	3	\$ 732.52	3	\$ 706.81	\$ 764.81	\$ 725.84	8.13.2.2.1.2 also uses this rate.
8.13.1.2.2 Equal To 60 Amps	NRC	\$ 1,140.52	Unapproved	\$ 1,103.12	\$ 567.00	3	\$ 926.60	3	\$ 895.31	\$ 969.64	\$ 921.86	8.13.2.2.1.3 also uses this rate.
8.13.1.3 Greater Than 60 Amps	NRC	\$ 802.04	Unapproved	\$ 1,057.79	\$ 567.00	3	\$ 647.11	3	\$ 621.09	\$ 671.96	\$ 648.28	
8.13.1.4 Power Off, per Feed Set, per Secondary Feed	RC	\$ 57.32	Unapproved	\$ 50.33	\$ 37.00	3	\$ 61.61	3	\$ 52.04	\$ 68.21	\$ 64.59	
8.13.1.4 Power Maintenance Charge (Reservation Charge), per Fuse Set	RC	\$ 57.32	Unapproved	\$ 50.33	\$ 37.00	3	\$ 61.61	3	\$ 52.04	\$ 68.21	\$ 64.59	
8.13.2 Power Restoration												
8.13.2.1 Quote Preparation Fee, per Office	NRC	\$ 811.18	Unapproved	\$ 802.93	\$ 411.00	3	\$ 706.90	3	\$ 655.67	\$ 761.34	\$ 703.70	
8.15 Collocation Available Inventory												
8.15.1 Standard Sites												
8.15.2 Special Sites												
8.15.2.1 Special Site Assessment Fee	NRC	\$ 1,195.12	Unapproved	\$ 836.58	\$ 597.56	2	\$ 1,051.23	1	\$ 986.00	\$ 1,051.23	Undetermined	
8.15.2.2 Network Systems Assessment Fee	NRC	\$ 1,819.26	Unapproved	\$ 1,273.48	\$ 909.63	2	\$ 1,559.01	2	\$ 1,465.63	\$ 1,652.38	Undetermined	
8.15.2.3 Site Survey Fee	NRC	\$ 169.97	Unapproved	\$ 118.98	\$ 150.00	2	\$ 150.40	2	\$ 137.14	\$ 163.65	Undetermined	
8.16 Collocation Decommissioning (see rates in 8.20)												
8.16.1 Additional Labor other, per Half Hour or fraction thereof	NRC	\$ 30.68	\$ 27.69	\$ 27.69	\$ 26.60	12	\$ 27.41	12	\$ 25.24	\$ 31.09	\$ 27.26	
8.16.1.1 Additional Labor Other - Basic	NRC	\$ 40.84	\$ 36.99	\$ 36.99	\$ 35.50	12	\$ 35.50	12	\$ 33.59	\$ 41.35	\$ 36.35	
8.16.1.2 Additional Labor Other - Overtime	NRC	\$ 51.01	\$ 46.30	\$ 46.30	\$ 44.42	12	\$ 44.42	12	\$ 41.96	\$ 51.63	\$ 45.50	
8.16.1.3 Additional Labor Other - Premium	NRC	\$ 128.56	\$ 59.10	\$ 59.10	\$ 57.70	11	\$ 74.50	11	\$ 33.97	\$ 87.98	\$ 73.16	
8.16.2 Additional Dispatch, per Order												
8.17 Joint Testing												
8.17.1 Set-Up Fee (price contains a one hour set up fee)	NRC	\$ 65.20	\$ 56.06	\$ 56.06	\$ 40.96	5	\$ 52.42	13	\$ 37.48	\$ 62.78	\$ 52.83	
8.17.2 Test Time Fee, per Half Hour	NRC	\$ 27.62	\$ 26.04	\$ 26.04	\$ 20.48	13	\$ 26.12	13	\$ 18.74	\$ 31.39	\$ 26.32	

Rate Element		RC / NRC	Quest's Original Proposed Rates	New Mexico	Quest's Final Proposed Rates	Escheion's Proposed Rates (#1)	13 State Average	#	5 State Average	#	13 State Low	13 State High	ALJ Methodology	Notes
9.23	UNE Combinations													
9.23.6	Loop Mux Combo (LMC)													
9.23.6.2	Loop Mux, 2-Wire Analog, DS0													
	9.23.6.2.1 LMC 2-Wire Loop Installation													
	9.23.6.2.1.1 First	NRC	\$ 236.87	\$ 164.76	\$ 164.76	\$ 118.12	\$ 175.20	8	\$ 118.12	3	\$ 70.77	\$ 258.49		9.23.6.3.1.1 also uses this rate.
	9.23.6.2.1.2 Each Additional	NRC	\$ 153.92	\$ 107.53	\$ 107.53	\$ 86.68	\$ 116.53	8	\$ 86.68	3	\$ 58.69	\$ 156.70		9.23.6.3.1.2 also uses this rate.
9.23.6.4	Loop Mux, DS1													
	9.23.6.4.1 LMC DS1 Loop Installation													
	9.23.6.4.1.1 First	NRC	\$ 286.16	\$ 208.41	\$ 208.41	\$ 155.41	\$ 227.02	8	\$ 155.41	3	\$ 89.87	\$ 333.74		
	9.23.6.4.1.2 Each Additional	NRC	\$ 214.92	\$ 152.59	\$ 152.59	\$ 125.06	\$ 165.19	8	\$ 125.06	3	\$ 79.57	\$ 222.37		
9.23.6.8	LMC Rearrangement													
	9.23.6.8.1 DS0													
	9.23.6.8.2 High Capacity													
	9.23.6.8.2.1 First	NRC	\$ 136.41	Unapproved	\$ 95.49	\$ 139.28	\$ 107.40	3	\$ 97.17	2	\$ 49.35	\$ 144.99		9.23.7.7.1 also uses this rate.
	9.23.6.8.2.2 Each Additional	NRC	\$ 154.83	Unapproved	\$ 106.38	\$ 154.25	\$ 128.32	3	\$ 116.53	2	\$ 68.48	\$ 164.57		9.23.7.7.2 also uses this rate.
9.23.7	Enhanced Extended Loop (EEL)													
	9.23.7.1 EEL Loop, DS1 (Wire Analog)													
	9.23.7.1.1 First	NRC	\$ 256.09	\$ 170.20	\$ 170.20	\$ 117.08	\$ 178.20	11	\$ 117.08	5	\$ 2.38	\$ 291.83		9.23.7.2.1 also uses this rate.
	9.23.7.1.1.1 First	NRC	\$ 188.86	\$ 133.60	\$ 133.60	\$ 86.49	\$ 132.15	11	\$ 86.40	5	\$ 2.35	\$ 224.11		9.23.7.2.2 also uses this rate.
	9.23.7.1.1.2 Each Additional													
9.23.7.3	EEL Loop, DS1													
	9.23.7.3.1 EEL DS1 Loop Installation													
	9.23.7.3.1.1 First	NRC	\$ 312.13	\$ 219.81	\$ 219.81	\$ 140.02	\$ 216.39	11	\$ 140.02	5	\$ 6.79	\$ 395.79		
	9.23.7.3.1.2 Each Additional	NRC	\$ 230.79	\$ 163.99	\$ 163.99	\$ 103.85	\$ 159.87	11	\$ 103.65	5	\$ 6.79	\$ 293.73		
9.23.7.4	EEL Loop, DS3													
	9.23.7.4.1 EEL DS3 Loop Installation													
	9.23.7.4.1.1 First	NRC	\$ 336.09	\$ 236.90	\$ 236.90	\$ 148.53	\$ 235.74	11	\$ 148.53	5	\$ 6.79	\$ 395.79		
	9.23.7.4.1.2 Each Additional	NRC	\$ 254.75	\$ 181.08	\$ 181.08	\$ 112.75	\$ 170.95	11	\$ 112.75	5	\$ 6.79	\$ 293.73		
9.23.7.11	EEL DS0 Channel Performance (uses rates from 9.6.7)													
	9.23.7.11.1 DS0 Low Side Channelization	RC	\$ 14.50	\$ 12.94	\$ 12.94	\$ 10.89	\$ 12.12	12	\$ 10.89	5	\$ 8.48	\$ 14.24		12.28 9.6.7.1 also uses this rate
	9.23.7.11.2 DS1/DS0 Low Side Channelization	RC	\$ 8.27	\$ 7.39	\$ 7.39	\$ 7.09	\$ 7.26	8	\$ 6.68	3	\$ 4.83	\$ 8.42		7.36 9.23.6.7.2 also uses this rate.
10.0	Ancillary Services													
	10.7 Access to Poles, Ducts, Conduits and Rights of Way (ROW)													
	10.7.12 Innerduct Occupancy Fee, per Linear Foot, per Year	RC	\$ 0.4099	\$ 0.4996	\$ 0.4012	\$ 0.3102	\$ 0.3097	13	\$ 0.3154	5	\$ 0.1549	\$ 0.4996		0.3065
	10.7.12.1 Microduct Occupancy Fee, per Microduct, per Foot, per Year	RC	\$ 0.4681	Unapproved	\$ 0.2092	\$ 0.2645	N/A	0	N/A	0	N/A	N/A		Undetermined
117.0	Bona Fide Request Process													
	117.1 Processing Fee	NRC	\$ 1,933.44	\$ 1,693.92	\$ 1,933.44	\$ 1,666.60	\$ 1,950.76	12	\$ 1,666.60	5	\$ 1,055.50	\$ 2,470.29		\$ 1,990.73

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Attachment 2 - Eschelon Alternative Rate Proposal and Associated Data

Rate Element		RC / NRC	Quest's Final Proposed Rates	Eschelon's Proposed Rates	ALJ Methodology	Irregular - Hypothetical	Eschelon Alternative Proposal (#2)	Notes
		A	B	C	D	E	F	G
8.0	Collocation							
8.1	All Collocation							
8.1.1	Planning and Engineering							
8.1.1.2	Cable Augment Quote Preparation Fee	NRC	\$ 1,126.01	\$ 700.25	\$ 1,272.62	\$ 1,126.01	\$ 1,126.01	8.8.1 & 8.12.2 also use this rate.
8.1.2	Entrance Facility							
8.1.2.2	Cageless & Caged Standard Shared, per Fiber	RC	\$ 5.92	\$ 4.14	\$ 6.58	\$ 5.92	\$ 5.92	
8.1.2.3	Cross Connect, per Fiber	RC	\$ 6.09	\$ 3.66	\$ 5.53	\$ 5.53	\$ 5.53	
8.1.2.4	Express, per Cable	RC	\$ 96.38	\$ 21.49	\$ 75.85	\$ 75.85	\$ 75.85	
8.1.2.4	Express, per Cable	NRC	\$ 9,415.02	\$ 2,027.90	\$ 6,903.90	\$ 9,415.02	\$ 9,415.02	
8.1.5	AC Power Feed							
8.1.5.1	AC Power Feed, per Amp, per Month							
8.1.5.1.1	120 V	RC	\$ 19.15	\$ 17.13	\$ 17.99	\$ 17.99	\$ 17.99	
8.1.5.1.2	208 V, Single Phase	RC	\$ 33.19	\$ 29.69	\$ 31.18	\$ 31.18	\$ 31.18	
8.1.5.1.3	208 V, Three Phase	RC	\$ 57.41	\$ 51.37	\$ 53.94	\$ 53.94	\$ 53.94	
8.1.5.1.4	240 V, Single Phase	RC	\$ 38.29	\$ 34.26	\$ 35.98	\$ 35.98	\$ 35.98	
8.1.5.1.5	240 V, Three Phase	RC	\$ 66.24	\$ 59.27	\$ 62.24	\$ 62.24	\$ 62.24	
8.1.5.1.6	480 V, Three Phase	RC	\$ 132.49	\$ 118.55	\$ 124.48	\$ 124.48	\$ 124.48	
8.1.8	Collocation Terminations							
8.1.8.1	Shared Access							
8.1.8.1.1	DS0							
8.1.8.1.1.1	Cable Placement, per 100 Pair Block	RC	\$ 0.1616	\$ 0.3200	\$ 0.3551	\$ 0.3200	\$ 0.1616	
8.1.8.1.1.1	Cable Placement, per 100 Pair Block	NRC	\$ 219.53	\$ 127.42	\$ 223.84	\$ 219.53	\$ 219.53	
8.1.8.1.1.3	Cable, per 100 Pair Block	RC	\$ 0.2447	\$ 0.4500	\$ 0.4684	\$ 0.4500	\$ 0.2447	
8.1.8.1.1.3	Cable, per 100 Pair Block	NRC	\$ 321.83	\$ 178.10	\$ 320.45	\$ 320.45	\$ 320.45	
8.1.8.1.1.5	Blocks, per 100 Pair Block	RC	\$ 0.4237	\$ 0.7600	\$ 0.8101	\$ 0.7600	\$ 0.4237	
8.1.8.1.1.5	Blocks, per 100 Pair Block	NRC	\$ 561.07	\$ 310.50	\$ 553.02	\$ 553.02	\$ 553.02	
8.1.8.1.1.7	Block Placement, per 100 Pair Block	RC	\$ 0.1692	\$ 0.3300	\$ 0.3874	\$ 0.3300	\$ 0.1692	
8.1.8.1.1.7	Block Placement, per 100 Pair Block	NRC	\$ 229.84	\$ 134.10	\$ 233.69	\$ 229.84	\$ 229.84	
8.1.8.1.2	DS1							
8.1.8.1.2.1	Cable Placement, per 28 DS1s	RC	\$ 0.5298	\$ 0.4700	\$ 0.6588	\$ 0.5298	\$ 0.5298	
8.1.8.1.2.1	Cable Placement, per 28 DS1s	NRC	\$ 382.40	\$ 207.44	\$ 381.49	\$ 381.49	\$ 381.49	
8.1.8.1.2.3	Cable, per 28 DS1s	RC	\$ 0.5316	\$ 0.4400	\$ 0.6309	\$ 0.5316	\$ 0.5316	
8.1.8.1.2.3	Cable, per 28 DS1s	NRC	\$ 371.50	\$ 192.80	\$ 369.96	\$ 369.96	\$ 369.96	
8.1.8.1.2.5	Panel, per 28 DS1s	RC	\$ 0.3028	\$ 0.3100	\$ 0.5635	\$ 0.3100	\$ 0.3028	
8.1.8.1.2.5	Panel, per 28 DS1s	NRC	\$ 218.52	\$ 133.13	\$ 315.28	\$ 218.52	\$ 218.52	
8.1.8.1.2.7	Panel Placement, per 28 DS1s	RC	\$ 0.1083	\$ 0.0900	\$ 0.1488	\$ 0.1083	\$ 0.1083	
8.1.8.1.2.7	Panel Placement, per 28 DS1s	NRC	\$ 78.17	\$ 42.72	\$ 79.67	\$ 78.17	\$ 78.17	
8.1.8.1.3	DS3							
8.1.8.1.3.1	Cable Placement, per Termination	RC	\$ 0.2200	\$ 0.1700	\$ 0.2706	\$ 0.2200	\$ 0.2200	
8.1.8.1.3.1	Cable Placement, per Termination	NRC	\$ 147.89	\$ 73.22	\$ 154.41	\$ 147.89	\$ 147.89	
8.1.8.1.3.2	Cable, per Termination	RC	\$ 0.1963	\$ 0.2700	\$ 0.3783	\$ 0.2700	\$ 0.1963	
8.1.8.1.3.2	Cable, per Termination	NRC	\$ 141.65	\$ 118.77	\$ 232.69	\$ 141.65	\$ 141.65	
8.1.8.1.3.3	Connector, per Termination	RC	\$ 0.3514	\$ 0.2800	\$ 0.3934	\$ 0.3514	\$ 0.3514	
8.1.8.1.3.3	Connector, per Termination	NRC	\$ 245.44	\$ 121.51	\$ 237.78	\$ 237.78	\$ 237.78	
8.1.8.1.3.4	Connector Placement, per Termination	RC	\$ 0.0201	\$ 0.0200	\$ 0.0363	\$ 0.0271	\$ 0.0271	
8.1.8.1.3.4	Connector Placement, per Termination	NRC	\$ 19.53	\$ 9.84	\$ 20.94	\$ 19.53	\$ 19.53	
8.1.8.1.4	Fiber							
8.1.8.1.4.1	Terminations, per 12 Fibers	RC	\$ 12.39	\$ 12.39	\$ 26.05	\$ 12.39	\$ 12.39	
8.1.8.1.4.1	Terminations, per 12 Fibers	NRC	\$ 1,601.47	\$ 1,601.47	\$ 1,575.88	\$ 1,601.47	\$ 1,601.47	
8.1.8.1.4.2	Additional Connector, if Applicable	RC	\$ 0.53	\$ 0.53	\$ 0.57	\$ 0.53	\$ 0.53	

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Rate Element		RC / NRC	Quest's Final Proposed Rates	Eschelon's Proposed Rates	ALJ Methodology	Irregular - Hypothetical	Eschelon Alternative Proposal (#2)	Notes
		A	B	C	D	E	F	G
	8.1.8.1.4.2 Additional Connector, if Applicable	NRC	\$ 435.47	\$ 435.37	\$ 428.51	\$ 435.37	\$ 435.37	
	8.1.8.1.4.3 Cable Racking, Shared, per 12 Fibers	RC	\$ 19.61	\$ 19.61	\$ 24.10	\$ 19.61	\$ 19.61	
	8.1.8.1.4.4 Cable Racking, Dedicated	RC	\$ 1.85	\$ 1.85	\$ 2.00	\$ 1.85	\$ 1.85	
	8.1.8.1.4.4 Cable Racking, Dedicated	NRC	\$ 1,516.92	\$ 1,516.92	\$ 1,492.69	\$ 1,516.92	\$ 1,516.92	
	8.1.9 Security Charges							
	8.1.9.2 Card Access, per Employee, per Central Office	RC	\$ 7.83	\$ 6.20	\$ 7.36	\$ 7.36	\$ 7.36	
	8.1.12 Space Availability Report Charge	NRC	\$ 234.02	\$ 234.38	\$ 292.79	\$ 234.38	\$ 234.02	
	8.1.14 Collocation Space Option Administration Fee	NRC	\$ 788.57	\$ 1,029.40	\$ 1,194.40	\$ 1,029.40	\$ 788.57	
	8.1.16 Joint Inventory Visit Fee, per Visit	NRC	\$ 1,610.12	\$ 1,610.12	Undetermined	\$ 1,610.12	\$ 1,610.12	
	8.2 Virtual Collocation							
	8.2.1 Planning and Engineering							
	8.2.1.1 Quote Preparation Fee	NRC	\$ 929.45	\$ 2,317.79	\$ 3,191.07	\$ 2,317.79	\$ 929.45	
	8.3 Cageless Physical Collocation							
	8.3.1 Planning and Engineering							
	8.3.1.1 Quote Preparation Fee	NRC	\$ 929.45	\$ 2,317.79	\$ 2,921.23	\$ 2,317.79	\$ 929.45	8.15.4.1 also uses this rate.
	8.4 Caged Physical Collocation							
	8.4.1 Planning and Engineering							
	8.4.1.1 Quote Preparation Fee	NRC	\$ 928.64	\$ 2,317.79	\$ 2,716.17	\$ 2,317.79	\$ 928.64	8.15.4.2 also uses this rate.
	8.4.2 Space Construction and Site Preparation							
	8.4.2.4 Space Construction							
	8.4.2.4.1 Cage: Up to 100 Sq. Ft.	RC	\$ 50.42	\$ 41.60	\$ 37.06	\$ 41.60	\$ 41.60	
	8.4.2.4.2 Cage: Up to 200 Sq. Ft.	NRC	\$ 36,390.30	\$ 26,168.10	\$ 27,772.47	\$ 27,772.47	\$ 27,772.47	
	8.4.2.4.2 Cage: 101 to 200 Sq. Ft.	RC	\$ 44.73	\$ 51.08	\$ 38.36	\$ 44.73	\$ 44.73	
	8.4.2.4.2 Cage: 201 to 300 Sq. Ft.	NRC	\$ 32,286.21	\$ 27,852.73	\$ 26,645.16	\$ 27,852.73	\$ 27,852.73	
	8.4.2.4.3 Cage: 201 to 300 Sq. Ft.	RC	\$ 55.23	\$ 54.27	\$ 47.41	\$ 54.27	\$ 54.27	
	8.4.2.4.3 Cage: 201 to 300 Sq. Ft.	NRC	\$ 39,862.25	\$ 29,650.53	\$ 31,109.19	\$ 31,109.19	\$ 31,109.19	
	8.4.2.4.4 Cage: 301 to 400 Sq. Ft.	RC	\$ 57.86	\$ 58.09	\$ 52.65	\$ 57.86	\$ 57.86	
	8.4.2.4.4 Cage: 301 to 400 Sq. Ft.	NRC	\$ 41,765.60	\$ 31,797.64	\$ 32,989.12	\$ 32,989.12	\$ 32,989.12	
	8.6 Remote Collocation							
	8.6.1 Physical & Virtual Remote Collocation							
	8.6.1.2 FDI Terminations, per 25 Pair	NRC	\$ 521.82	\$ 506.92	\$ 524.71	\$ 521.82	\$ 521.82	8.6.2.2.2 also uses this rate.
	8.7 CLEC-to-CLEC							
	8.7.2 Cable Racking							
	8.7.2.1 DS0, per foot	RC	\$ 44.60	\$ 0.148	\$ 0.126	\$ 0.148	\$ 0.148	
	8.7.2.2 DS0, per request	RC	\$ 185.34	\$ 0.158	\$ 0.135	\$ 0.158	\$ 0.158	
	8.7.2.3 DS1, per request	RC	\$ 29.12	\$ 0.135	\$ 0.114	\$ 0.114	\$ 0.114	
	8.7.3 Virtual Connections (if Applicable - Connections Only; No Cables)							
	8.7.3.1 DS0, per 100 Connections	NRC	\$ 192.02	\$ 191.23	\$ 210.79	\$ 192.02	\$ 192.02	
	8.7.3.2 DS1, per 28 Connections	NRC	\$ 89.00	\$ 89.56	\$ 94.90	\$ 89.56	\$ 89.00	
	8.7.3.3 DS3, per 1 Connection	NRC	\$ 6.14	\$ 6.11	\$ 7.19	\$ 6.14	\$ 6.14	
	8.7.4 Cable Hole, if Applicable	NRC	\$ 463.55	\$ 434.08	\$ 438.16	\$ 438.16	\$ 438.16	
	8.8 Interconnection Distribution Frame (ICDF) Collocation							

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Rate Element	RC / NRC	Qwest's Final Proposed Rates			Eschelon's Proposed Rates	ALJ Methodology	Irregular - Hypothetical	Eschelon Alternative Proposal (#2)	Notes
		A	B	C					
8.8.4 DS3 Circuit, per Two Legs	NRC	\$ 1,213.31	\$ 612.89	Undetermined	\$ 913.10	\$ 913.10	\$ 913.10		
8.12 Facility Connected (FC) Collocation									
8.12.4 Fiber Entrance Facility, per Cable, minimum 12 Strands	RC	\$ 71.04	\$ 85.20	\$ 86.70	\$ 85.20	\$ 85.20	\$ 71.04		
8.12.4 Fiber Entrance Facility, per Cable, minimum 12 Strands	NRC	\$ 7,359.96	\$ 10,201.80	\$ 9,192.86	\$ 9,192.86	\$ 9,192.86	\$ 7,359.96		
8.13 DC Power Reduction and Restoration									
8.13.1 Power Reduction									
8.13.1.1 Quote Preparation Fee, per Office	NRC	\$ 567.83	\$ 411.00	\$ 703.70	\$ 567.83	\$ 567.83	\$ 567.83		
8.13.1.2 Power Reduction, with or without Reservation, per Feed Set									
8.13.1.2.1 Less Than 60 Amps	NRC	\$ 624.36	\$ 346.00	\$ 504.79	\$ 504.79	\$ 504.79	\$ 504.79	8.13.2.2.1.1 also uses this rate.	
8.13.1.2.2 Equal To 60 Amps	NRC	\$ 878.10	\$ 346.00	\$ 725.84	\$ 725.84	\$ 725.84	\$ 725.84	8.13.2.2.1.2 also uses this rate.	
8.13.1.2.3 Greater Than 60 Amps	NRC	\$ 1,103.12	\$ 587.00	\$ 921.86	\$ 921.86	\$ 921.86	\$ 921.86	8.13.2.2.1.3 also uses this rate.	
8.13.1.3 Power Off, per Feed Set, per Secondary Feed	NRC	\$ 1,057.79	\$ 587.00	\$ 648.28	\$ 648.28	\$ 648.28	\$ 648.28		
8.13.1.4 Power Maintenance Charge (Reservation Charge), per Fuse Set	RC	\$ 50.33	\$ 37.00	\$ 64.59	\$ 50.33	\$ 50.33	\$ 50.33		
8.13.2 Power Restoration									
8.13.2.1 Quote Preparation Fee, per Office	NRC	\$ 802.93	\$ 411.00	\$ 703.70	\$ 703.70	\$ 703.70	\$ 703.70		
8.15 Collocation Available Inventory									
8.15.1 Standard Sites									
8.15.2 Special Sites									
8.15.2.1 Special Site Assessment Fee	NRC	\$ 836.58	\$ 587.56	Undetermined	\$ 717.07	\$ 717.07	\$ 717.07		
8.15.2.2 Network Systems Assessment Fee	NRC	\$ 1,273.48	\$ 909.63	Undetermined	\$ 1,091.56	\$ 1,091.56	\$ 1,091.56		
8.15.2.3 Site Survey Fee	NRC	\$ 118.98	\$ 150.00	Undetermined	\$ 134.49	\$ 134.49	\$ 118.98		
8.16 Collocation Decommissioning (see rates in 9.20)									
8.16.1 Additional Labor other, per Half Hour or fraction thereof									
8.16.1.1 Additional Labor Other - Basic	NRC	\$ 27.69	\$ 26.60	\$ 27.26	\$ 27.26	\$ 27.26	\$ 27.26		
8.16.1.2 Additional Labor Other - Overtime	NRC	\$ 36.99	\$ 35.50	\$ 36.35	\$ 36.35	\$ 36.35	\$ 36.35		
8.16.1.3 Additional Labor Other - Premium	NRC	\$ 46.30	\$ 44.42	\$ 45.50	\$ 45.50	\$ 45.50	\$ 45.50		
8.16.2 Additional Dispatch, per Order	NRC	\$ 59.10	\$ 57.70	\$ 73.16	\$ 59.10	\$ 59.10	\$ 59.10		
8.17 Joint Testing									
8.17.1 Set-Up Fee (price contains a one hour set up fee)	NRC	\$ 56.08	\$ 40.96	\$ 52.83	\$ 52.83	\$ 52.83	\$ 52.83		
8.17.2 Test Time Fee, per Half Hour	NRC	\$ 28.04	\$ 20.48	\$ 26.32	\$ 26.32	\$ 26.32	\$ 26.32		
9.0 Unbundled Network Elements (UNEs)									
9.2 Unbundled Loops									
9.2.5 DS1 Loop Installation Charges									
9.2.5.5 Basic Installation with Cooperative Testing									
9.2.5.5.1 First									
9.2.5.5.1.2 Mechanized	NRC	\$ 240.39	\$ 150.26	\$ 224.39	\$ 224.39	\$ 224.39	\$ 224.39		
9.2.5.5.2 Each Additional									
9.2.5.5.2.2 Mechanized	NRC	\$ 218.77	\$ 121.94	\$ 164.13	\$ 164.13	\$ 164.13	\$ 164.13		
9.2.6 DS3 Loop Installation Charges									
9.2.6.5 Basic Installation with Cooperative Testing									
9.2.6.5.1 First									
9.2.6.5.1.2 Mechanized	NRC	\$ 239.67	\$ 150.26	\$ 224.39	\$ 224.39	\$ 224.39	\$ 224.39		
9.2.6.5.2 Each Additional									
9.2.6.5.2.2 Mechanized	NRC	\$ 218.17	\$ 121.94	\$ 164.13	\$ 164.13	\$ 164.13	\$ 164.13		
9.2.8 Private Line / Special Access to Unbundled Loop Conversion	NRC	\$ 22.86	\$ 16.72	\$ 31.41	\$ 22.86	\$ 22.86	\$ 22.86	9.23.6.5 & 9.23.7.6 also use this rate.	
9.6 Unbundled Dedicated Interoffice Transport (UDIT)									

Rate Element	RC / NRC	Qwest's Final Proposed Rates		Eschelon's Proposed Rates	ALJ Methodology	Irregular - Hypothetical	Eschelon Alternative Proposal (#2)	Notes
		A	B					
9.6.11	UDIT Rearrangement							
	9.6.11.1 DS0, Single Office	NRC	\$ 123.13	\$ 122.25	\$ 148.76	\$ 123.13	\$ 123.13	
	9.6.11.2 DS0, Dual Office	NRC	\$ 153.03	\$ 127.98	\$ 175.87	\$ 153.03	\$ 153.03	
	9.6.11.3 High Capacity, Single Office	NRC	\$ 166.53	\$ 145.05	\$ 197.07	\$ 166.53	\$ 166.53	
	9.6.11.4 High Capacity, Dual Office	NRC	\$ 185.83	\$ 151.17	\$ 213.83	\$ 185.83	\$ 185.83	
	9.6.12 Private Line / Special Access to UDIT Conversion	NRC	\$ 86.77	\$ 70.91	Undetermined	\$ 78.84	\$ 78.84	
9.7	Unbundled Dark Fiber (UDF)							
	9.7.1 Initial Records Inquiry (IRI)							
	9.7.1.1 Simple	NRC	\$ 176.23	\$ 135.57	\$ 168.66	\$ 168.66	\$ 168.66	
	9.7.1.2 Complex	NRC	\$ 206.88	\$ 169.70	\$ 207.99	\$ 206.88	\$ 206.88	
	9.7.4 UDF Single Strand							
	9.7.4.1 UDF - Interoffice Facilities (UDF-IOF) - Single Strand							
	9.7.4.1.5 Fiber Cross-Connect, per Pair	RC	\$ 2.34	\$ 1.84	\$ 2.11	\$ 2.11	\$ 2.11	
	9.7.5 UDF - per Pair							
	9.7.5.1 UDF - Interoffice Facilities (UDF-IOF) - per Pair							
	9.7.5.1.1 Order Charge, per First Pair / Route / Order	NRC	\$ 415.24	\$ 373.22	\$ 464.49	\$ 415.24	\$ 415.24	9.7.4.1.1 also uses this rate.
	9.7.5.1.2 Order Charge, Each Additional Pair / Route / Order	RC	\$ 189.93	\$ 187.08	\$ 223.67	\$ 189.93	\$ 189.93	9.7.4.1.2 also uses this rate.
	9.7.5.1.5 Fiber Cross-Connect, per Pair	RC	\$ 4.68	\$ 3.55	\$ 3.80	\$ 3.80	\$ 3.80	
	9.7.5.1.5 Fiber Cross-Connect, per Pair	NRC	\$ 15.06	\$ 11.65	\$ 16.61	\$ 15.06	\$ 15.06	
	9.7.6 Dark Fiber Splice	NRC	\$ 476.95	\$ 565.67	\$ 615.82	\$ 565.67	\$ 476.95	
9.20	Miscellaneous Charges							
	9.20.1 Additional Engineering, per Half Hour or fraction thereof							
	9.20.1.1 Additional Engineering - Basic	NRC	\$ 31.77	\$ 30.91	\$ 31.46	\$ 31.46	\$ 31.46	
	9.20.1.2 Additional Engineering - Overtime	NRC	\$ 39.30	\$ 38.22	\$ 38.94	\$ 38.94	\$ 38.94	
	9.20.2 Additional Labor Installation, per Half Hour or fraction thereof							
	9.20.2.1 Additional Labor Installation - Overtime	NRC	\$ 9.03	\$ 8.89	\$ 8.94	\$ 8.94	\$ 8.94	
	9.20.2.2 Additional Labor Installation - Premium	NRC	\$ 18.07	\$ 17.57	\$ 17.89	\$ 17.89	\$ 17.89	
	9.20.3 Additional Labor Other, per Half Hour or fraction thereof							
	9.20.3.1 Additional Labor Other - (Optional Testing) Basic	NRC	\$ 27.69	\$ 26.94	\$ 27.47	\$ 27.47	\$ 27.47	
	9.20.3.2 Additional Labor Other - (Optional Testing) Overtime	NRC	\$ 36.99	\$ 35.98	\$ 36.62	\$ 36.62	\$ 36.62	
	9.20.3.3 Additional Labor Other - (Optional Testing) Premium	NRC	\$ 46.30	\$ 45.03	\$ 45.84	\$ 45.84	\$ 45.84	
	9.20.4 Testing and Maintenance, per Half Hour or fraction thereof							
	9.20.4.1 Testing and Maintenance - Basic	NRC	\$ 29.42	\$ 28.62	\$ 28.98	\$ 28.98	\$ 28.98	
	9.20.4.2 Testing and Maintenance - Overtime	NRC	\$ 39.30	\$ 35.72	\$ 38.20	\$ 38.20	\$ 38.20	
	9.20.4.3 Testing and Maintenance - Premium	NRC	\$ 49.17	\$ 47.83	\$ 48.36	\$ 48.36	\$ 48.36	
	9.20.5 Maintenance of Service, per Half Hour or fraction thereof							
	9.20.5.1 Maintenance of Service - Basic	NRC	\$ 27.69	\$ 26.94	\$ 27.55	\$ 27.55	\$ 27.55	
	9.20.5.2 Maintenance of Service - Overtime	NRC	\$ 36.99	\$ 35.98	\$ 36.62	\$ 36.62	\$ 36.62	
	9.20.5.3 Maintenance of Service - Premium	NRC	\$ 46.30	\$ 45.03	\$ 45.84	\$ 45.84	\$ 45.84	
	9.20.6 Additional Cooperative Acceptance Testing, per Half Hour or fraction thereof							
	9.20.6.1 Additional Cooperative Acceptance Testing - Basic	NRC	\$ 29.42	\$ 28.62	\$ 29.13	\$ 29.13	\$ 29.13	
	9.20.6.2 Additional Cooperative Acceptance Testing - Overtime	NRC	\$ 39.30	\$ 35.72	\$ 38.91	\$ 38.91	\$ 38.91	
	9.20.6.3 Additional Cooperative Acceptance Testing - Premium	NRC	\$ 49.17	\$ 47.83	\$ 48.69	\$ 48.69	\$ 48.69	
	9.20.9 Additional Dispatch	NRC	\$ 59.10	\$ 63.63	\$ 76.46	\$ 63.63	\$ 59.10	
	9.20.10 Date Change	NRC	\$ 48.66	\$ 7.48	\$ 9.53	\$ 9.53	\$ 9.53	
9.23	UNE Combinations							

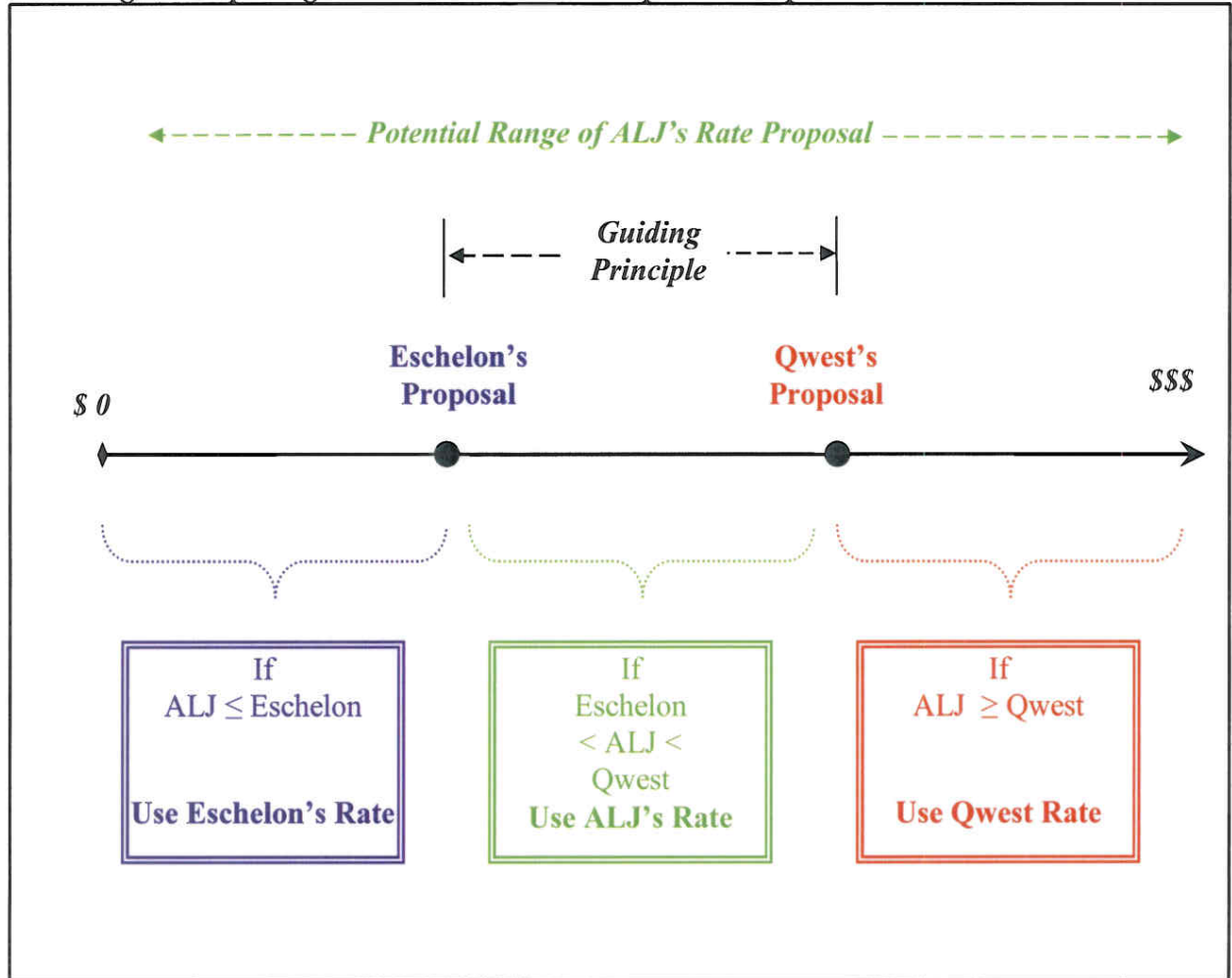
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Rate Element		RC / NRC	Quest's Final Proposed Rates	Escheleton's Proposed Rates	ALJ Methodology	Irregular - Hypothetical	Escheleton Alternative Proposal (#2)	Notes
A	B	C	D	E	F	G		
9.23.6	Loop Mux Combo (LMC)							
9.23.6.2	Loop Mux, 2-Wire Analog, DSO							
	9.23.6.2.1 LMC 2-Wire Loop Installation							
	9.23.6.2.1.1 First	NRC	\$ 164.76	\$ 118.12	\$ 178.72	\$ 164.76	\$ 164.76	9.23.6.3.1.1 also uses this rate.
	9.23.6.2.1.2 Each Additional	NRC	\$ 107.53	\$ 86.68	\$ 119.47	\$ 107.53	\$ 107.53	9.23.6.3.1.2 also uses this rate.
	9.23.6.4 Loop Mux, DS1							
	9.23.6.4.1 LMC DS1 Loop Installation							
	9.23.6.4.1.1 First	NRC	\$ 208.41	\$ 155.41	\$ 232.09	\$ 208.41	\$ 208.41	
	9.23.6.4.1.2 Each Additional	NRC	\$ 152.59	\$ 125.06	\$ 169.93	\$ 152.59	\$ 152.59	
	9.23.6.8 LMC Rearrangement							
	9.23.6.8.1 DSO	NRC	\$ 95.49	\$ 139.28	\$ 127.85	\$ 127.85	\$ 95.49	9.23.7.7.1 also uses this rate.
	9.23.6.8.2 High Capacity	NRC	\$ 108.38	\$ 154.25	\$ 151.91	\$ 151.91	\$ 108.38	9.23.7.7.2 also uses this rate.
	9.23.7 Enhanced Extended Loop (EEL)							
	9.23.7.1 EEL Loop, DSO 2-Wire Analog							
	9.23.7.1.1 First	NRC	\$ 179.20	\$ 117.98	\$ 185.11	\$ 179.20	\$ 179.20	9.23.7.2.1.1 also uses this rate.
	9.23.7.1.1.2 Each Additional	NRC	\$ 133.60	\$ 86.40	\$ 136.35	\$ 133.60	\$ 133.60	9.23.7.2.1.2 also uses this rate.
	9.23.7.3 EEL Loop, DS1							
	9.23.7.3.1 EEL DS1 Loop Installation							
	9.23.7.3.1.1 First	NRC	\$ 219.81	\$ 140.02	\$ 235.76	\$ 219.81	\$ 219.81	
	9.23.7.3.1.2 Each Additional	NRC	\$ 163.99	\$ 103.65	\$ 171.46	\$ 163.99	\$ 163.99	
	9.23.7.4 EEL Loop, DS3							
	9.23.7.4.1 EEL DS3 Loop Installation							
	9.23.7.4.1.1 First	NRC	\$ 236.90	\$ 148.53	\$ 243.40	\$ 236.90	\$ 236.90	
	9.23.7.4.1.2 Each Additional	NRC	\$ 181.08	\$ 112.75	\$ 186.55	\$ 181.08	\$ 181.08	
	9.23.7.11 EEL DSO Channel Performance (uses rates from 9.6.7)							
	9.23.7.11.1 DSO Low Side Channelization	RC	\$ 12.94	\$ 10.89	\$ 12.28	\$ 12.28	\$ 12.28	9.6.7.1 also uses this rate
	9.23.7.11.2 DS1 / DSO Low Side Channelization	RC	\$ 7.38	\$ 7.09	\$ 7.36	\$ 7.36	\$ 7.36	9.23.6.7.2 also uses this rate.
10.0 Ancillary Services								
10.7 Access to Poles, Ducts, Conduits and Rights of Way (ROW)								
10.7.12 Innerduct Occupancy Fee, per Linear Foot, per Year		RC	\$ 0.4012	\$ 0.3102	\$ 0.3065	\$ 0.3102	\$ 0.3102	
10.7.12.1 Microduct Occupancy Fee, per Microduct, per Foot, per Year		RC	\$ 0.2092	\$ 0.2645	Undetermined	\$ 0.2369	\$ 0.2092	
17.0 Bona Fide Request Process								
17.1 Processing Fee		NRC	\$ 1,933.44	\$ 1,666.60	\$ 1,990.73	\$ 1,933.44	\$ 1,933.44	

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Attachment 3
Diagrams Depicting Eschelon Alternative Proposal and Irregular Scenario

3-A Diagram Depicting Eschelon Alternative Proposal in Expected Scenario



3-B Diagram Depicting Irregular Scenario

